

EXHIBIT 1

From: Chris Smith <CSmith@ohanare.com>
Sent: Wednesday, November 03, 2021 10:16 AM
To: Franco Famularo; Eddie Yu
Subject: FW: Timely DoBro note / Bridge Refinance — NYC Lease — \$88M
Attachments: 19-NY-291_The Tillary Hotel Brooklyn, Residences, and Parking Garage Final Appraisal Report (1)_211102_175456.pdf; Tillary Hotel_211102_200046.pdf; downtownbrooklyn.zip

FYI - Don't know this person and received the attached.

From: Avihu Kadosh <ak@slingshotops.com>
Sent: Wednesday, November 3, 2021 8:55 AM
To: Chris Smith <CSmith@ohanare.com>
Subject: Timely DoBro note / Bridge Refinance — NYC Lease — \$88M

Chris,

Tried to call your line:

Proceeds of between \$83-88M will take out the existing lenders (MRC & Bluestone) and therefore take out the loan out of bankruptcy, plus closing costs and your one-year interest reserve. If you push the \$83M to \$88M these additional proceeds will buy out a minority equity partner in the deal.

Current ownership has \$22,000,000.00 of cash equity in the deal, \$18M of which are Sam and Lipa Rubin.

New York City currently leases ALL 174 rooms for its MOCJ program at an annual rate of \$7621200 (\$120/night) and are in lease negotiations to expand their footprint in the asset by adding the additional 64 free market units that are a part of this property for an annual run rate of \$10,424,400 (NOI: \$7.8M). The full draft lease is attached as well as historical financials for this property. Please keep all internally.

The appraisal is attached for property overview information.

Happy to answer any questions you may have in timely fashion or set up a call with the borrower.

Avihu Kadosh

—

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On behalf of On-Site Realty Inc. / Realty Advisors NY

**APPRAISAL OF THE TILLARY HOTEL BROOKLYN,
RESIDENCES, AND PARKING GARAGE**



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September 27, 2019

Mr. David Baharestani
Vice President
Madison Avenue Realty Capital
520 Madison Avenue, Suite 3501
New York, NY 10022

Ms. Samantha Ponce
Appraisal Department
Axos Bank
PO Box 919008
San Diego, CA 92191-9872

Re: Appraisal of The Tillary Hotel Brooklyn, Residences, and Parking Garage
85 Flatbush Avenue Extension & 60 Duffield Street
Brooklyn, Kings County, New York 11201

LWHA® Job No.: 19-NY-291

Dear Mr. Baharestani and Ms. Ponce,

In fulfillment of our agreement as outlined in the Letter of Engagement, we are pleased to transmit our appraisal of the above-captioned property in an appraisal report dated September 27, 2019. The effective date of value is September 11, 2019. We have also prepared a prospective market value upon stabilization as of September 1, 2021.

The subject property consists of a 19,135± square foot site located on the corner of Flatbush Avenue Extension and Duffield Street, near the Manhattan Bridge, in Downtown Brooklyn, New York. The site was improved in 2015 with a 12-story, mixed-use building comprised of 132,641± square feet of gross building area, featuring the independent hotel known as The Dazzler Hotel on the ground through sixth floors, 64 residential units on floors seven through twelve, and parking garage. In September 2017, ownership renamed the subject hotel to The Tillary Hotel Brooklyn. Today, the subject hotel features 174 guestrooms with facilities and amenities including a business center, fitness center, 3,437 square feet of meeting space, restaurant, TRoom Café, and Secret Side Bar. The hotel is operated by Jam26 Hotels.

Please note that given the sizable residential and parking components onsite, we have subcontracted Metropolitan Valuation Services to prepare a valuation of the aforementioned components. This portion of the property comprises ±46,368 gross square feet of residential units and ±5,642 gross square feet of parking garage space located on the ground level. **The complete analysis prepared by Metropolitan Valuation Services has been included in the Addendum of the report.**

While the hotel, residential, and parking analyses were conducted separately for the purpose of this assignment, the conclusions of each component have been added together in order to estimate the combined value of all subject property components.

The subject property is currently under contract for sale by 85 Flatbush Owner LL and 85 Flatbush Apartments Owner LLC to 65 South 11th Street, Suite 2C, Brooklyn, New York 11211 for \$92,000,000, according to the unexecuted Purchase and Sale Agreement dated February 28, 2019. Please note, this purchase price includes the hotel, residences, and parking. The allocation of the purchase price is as follows: (i) \$90,000,000 for the real estate and (ii) \$2,000,000 for the personal property including FF&E. Upon closing of the sale, the property is anticipated to continue operating as The Tillary Hotel Brooklyn with residential tenants and parking garage.

Note that an affiliate of LW Hospitality Advisors provided a consulting assignment for the prospective ownership within the past three years preceding the date of this report.

This report is for the use and benefit of Madison Avenue Realty Capital & Axos Bank. The intended use of the appraisal is in connection with a potential financing. The Client agrees that there are no other intended users or intended uses of the appraisal.

This appraisal report has been prepared in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). In addition, the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) specifies that a Federally-regulated financial institution must be the Client in the appraiser-client relationship under the terms of an assignment agreement. To the extent the Client is governed by FIRREA, this appraisal meets all applicable requirements.

As Is Market Value

As a result of our analysis, we are of the opinion that the market value of the fee simple interest of the subject property, in its as is condition and subject to the assumptions and limiting conditions, certification and definitions, and extraordinary assumptions and hypothetical conditions, if any, as of September 11, 2019, is:

NINETY FOUR MILLION DOLLARS
\$94,000,000

Allocation of Market Value As Is		
Hotel	\$54,800,000	58%
Residential	\$39,300,000	42%
Total	\$94,100,000	
Concluded Total	\$94,000,000	

Please note, the residential component is predicated on the data analyses presented in the Addendum of the report.

Prospective Market Value Upon Stabilization

Furthermore, based on the agreed to Scope of Work, and as a result of our analysis, we have developed an opinion that the Prospective Market Value Upon Stabilization of the fee simple estate of the subject property, subject to the assumptions and limiting conditions, certification and definitions, and extraordinary assumptions and hypothetical conditions, if any, as of September 1, 2021, will be:

ONE HUNDRED ONE MILLION DOLLARS
\$101,000,000

Allocation of Market Value As Stabilized		
Hotel	\$60,400,000	60%
Residential	\$40,400,000	40%
Total	\$100,800,000	
Concluded Total	\$101,000,000	

Please note, the residential component is predicated on the data analyses presented in the Addendum of the report.

The opinions of value include the land, the improvements, and the contributory value of the furniture, fixtures and equipment. The appraisers assume that the property will remain open and operational. The analysis contained in this appraisal is based upon assumptions and estimates that are subject to uncertainty and variation. These estimates are often based on data obtained in interviews with third parties, and such data are not always completely reliable. In addition, we make assumptions as to the future behavior of consumers and the general economy, which are highly uncertain. However, it is inevitable that some assumptions will not materialize, and unanticipated events may occur that will cause actual achieved operating results to differ from the financial analyses contained in this report and these differences may be material. Therefore, while our analysis was conscientiously prepared based on our experience and the data available, we make no warranty that the conclusions presented will, in fact, be achieved. Additionally, we have not been engaged to evaluate the effectiveness of management and we are not responsible for future marketing efforts and other management actions upon which actual results may depend.

We did not ascertain the legal, engineering, and regulatory requirements applicable to the property, including zoning and other state and local government regulations, permits and licenses. No effort has been made to determine the possible impact on the property of present or future federal, state or local legislation, including any environmental or ecological matters or interpretations thereof. With respect to the market demand analysis, our work did not include analysis of the potential impact of any significant rise or decline in local or general economic conditions.

We believe, based on the assumptions employed in our cash flow, as well as our selection of investment parameters for the subject, that the value conclusion represents a market price achievable within 6 to 12 months exposure prior to the date of value.

We take no responsibility for any events, conditions, or circumstances affecting the market that exists subsequent to the last day of our fieldwork, September 11, 2019.

The value opinions in this report are qualified by certain assumptions, limiting conditions, certifications, and definitions.

Extraordinary Assumptions

Extraordinary Assumptions are assumptions which if found to be false could alter the resulting opinion or conclusion.

Hotel Component

According to representative of prospective ownership, the hotel property is not anticipated to be affiliated with a brand as of the date of this report. Therefore, we assume the hotel to be operating as The Tillary Brooklyn Hotel or as a similar independent hotel throughout the projection period. For the purpose of this appraisal, we only analyzed the hotel as an independent hotel without any brand-affiliations or any brand-affiliated upside potential. In addition, according to representative of prospective ownership, the subject property is not anticipated to undergo any renovations or require any major capital expenditure in the near future. We assume the information provided is accurate and we reserve the right to amend our conclusions upon receipt of any additional information.

This appraisal assumes the subject property could be sold unencumbered of a management agreement. For the purpose of this analysis, this appraisal assumes that a competent third party management would manage the subject property for the duration of the projection period. As such, we have utilized a market based management fee of 3.0 percent of total revenue throughout the projection period.

The subject's food and beverage program consist of a full-service restaurant, the TRoom Café coffee shop, and Secret Side Bar. For the full-service restaurant which opened in July 2019, we assume the restaurant will ramp up in performance in the first projection year and throughout the projection period. In addition, the subject property currently does not offer any in-room dining; however, according to property management, the subject property is anticipated to commence offering in-room dining in the first projection year. We have assumed in-room dining service commences in the first projection year and throughout the projection period.

We assume that the subject property will continue to need renovations throughout its life cycle. Considering the current condition of the subject property and its age, we have projected reserves for replacement equal to 4.0 percent of gross revenue throughout the projection period.

If any of the aforementioned assumptions prove untrue, it may have an impact on our concluded opinion(s) of value. We reserve the right to amend our conclusions herein upon receipt of any additional information.

Hypothetical Conditions

Hypothetical Conditions are assumptions made contrary to fact, but which are assumed for the purpose of discussion, analysis, or formulation of opinions.

This appraisal employs no hypothetical conditions.

This letter is invalid as an opinion of value if detached from the report, which contains the text, exhibits, and Addenda.

Mr. Baharestani and Ms. Ponce
Madison Avenue Realty Capital & Axos Bank
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Respectfully submitted,

LW Hospitality Advisors®

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HOTEL USE AGREEMENT

This Hotel Use Agreement (the “Hotel Agreement”) between the CITY OF NEW YORK (“City”) acting by and through its Department of Homeless Services (“Department” or “DHS”), having an office located at 33 Beaver Street, New York, NY 10004, and the Hotel Association of New York City (“HANYC”), a trade organization with offices located at 34 East 51st Street, 8th floor, (the “Hotel” or “Contractor”) with offices at _____ (collectively referred to as the “Parties”). The Agreement shall be effective as of the Effective Date defined below.

New York City Information	Hotel Information
City Agency: NYC Department of Homeless Services	Name of Hotel: Tillary Hotel
Address: Title: 33 Beaver Street	Address:
City, State, Zip: New York, NY 10004	City, State, Zip:
City Contact: Chanell Miller	Hotel Contact: Yechiel Landau
Title: Director of Strategic Initiatives	Title:
Phone: 347-245-0005	Phone:
Email: cmiller@dhs.nyc.gov	Email:
Intended Use: <input checked="" type="checkbox"/> Relocation Site or <input type="checkbox"/> Isolation Site (please check the intended use)	

I. Agreement

- a. Hotel will make available to the City 100% of 174 rooms in the Hotel (“Program Rooms”) at a room rate of \$ 120 per day (the “Rental Rate”) for the term of this Hotel Agreement and the City shall pay for all such available rooms regardless of whether they are occupied by DHS guests through HANYC.
- b. The Program Rooms will be utilized as temporary housing for homeless individuals (“Guests”) referred and overseen by DHS. In addition to their use as temporary housing, uses of the Program Rooms may include, but shall not be limited to, the provision of services to Guests, and administrative work related to the Program by the Department or the City (collectively, the “Program”). Guests may include non-patients and/or shelter Guests who are COVID-19 patients. **Change of Use:** The Parties acknowledge that the needs of the City and the purpose, for which the Hotel/Program Rooms is used, may change over the term of this Agreement. In the event the City determines that the type of program should change, DHS may effectuate that change upon five (5) business days’ notice to the Hotel either through (i) the consent of all Parties pursuant to the Change of Use Notice, which is attached hereto as Appendix 4, when changing the use from a Relocation to an Isolation Program as specified below, or (ii) without the consent of all Parties when changing the use from an Isolation to a Relocation, pursuant to Paragraph 7 of Appendix 4. All other terms and conditions of the Agreement will remain the same. **Isolation/Relocation Program Definition:** A DHS Isolation Program is defined

as the temporary housing of homeless individuals who have a known or suspected COVID positive status. A DHS Relocation Program is defined as the temporary housing of homeless individuals. **Isolation/Relocation Program Use:** This Hotel is to be used for the Isolation or Relocation program as specified above. The Isolation and Relocation Programs have different criteria only with respect to the housekeeping/room cleaning requirements as described in Section III (2)(f) below.

- c. The Parties agree that all Program Rooms in the Hotel will be used for the express purpose of the Program unless otherwise designated in this Agreement.
- d. The Parties agree that this Hotel Agreement includes the use of, and access to the entire Hotel building, including but not limited to all Program Rooms, meeting spaces, Guest storage spaces, Guest parking lots/areas/spaces etc. (collectively, the "Hotel Property").
- e. The term of this Hotel Agreement shall commence on 10/15/2021, or the date on which the first Guest moves into the Hotel provided that the first Guest moves in within fifteen (15) days of execution of this Agreement. In the event the first Guest does not move in within fifteen (15) days of execution of this Agreement, the Term shall commence on the fifteenth (15th) days following execution of this Agreement ("Effective Date"), and shall expire on 12/31/2021 ("Termination Date"). This Hotel Agreement may be extended through mutual, written consent of all parties. All extensions shall be on substantially the same terms and conditions contained in the hotel booking administration agreement between HANYC and the City (hereinafter the "Administration Agreement"). The Hotel Agreement may be terminated prior to the Termination Date by the Hotel or HANYC with sixty (60) days written notice to the other Parties. If the Administrative Agreement should be terminated by either DHS or HANYC, then this Agreement shall also terminate. The Hotel Agreement may be terminated prior to the Termination Date by the City with ten (10) days' notice to the other Parties, provided the City will not terminate prior to thirty (30) calendar days from the date hereof. The City will deliver the premises vacant and broom clean at the end of the term or sooner termination thereof. Hotel or HANYC shall have the right to terminate in the event of a material breach by the City of Hotel Agreement. In the event of such material breach, the City shall have seven (7) days to cure such material breach from the date HANYC or the Hotel provides notice to the City of such material breach. If the City does not cure the breach within such time, then HANYC or the Hotel may terminate this agreement effective fourteen (14) days from the end of such seven (7) day cure period.
- f. Taxes: The City agreed to pay the Rental Rate as set forth herein any and all applicable federal, state, municipal or other taxes, fees, or assessments imposed on or applicable to the City's use of the Hotel. The Hotel will honor any available tax exemptions for which the City qualifies, provided that the City properly completes and timely provides all documentation required by the applicable jurisdiction to substantiate said exemption. Attached as Appendix 1 is the City's New York State Sales Tax Exemption Certificate.

- g. The City may require third parties to enter the hotel to provide services to the Guests or for other purposes, as it deems necessary. All third-party contractors shall be chosen in the City's sole discretion. Hotel shall reasonably cooperate with all such third-party contractors, including allowing such contractors access into and throughout the Hotel as reasonably necessary to carry out their duties.
- h. Personal Laundry: The Hotel will provide for the laundering of Guests' personal laundry 3 times a week which shall be included in the overall room Rental Rate. The personal laundry service process shall be coordinated between the Hotel management and the City's contracted service provider.
- i. The Parties acknowledge the Rental Rate is fixed. The Parties further acknowledge that no amenity (other than as provided in this Hotel Agreement) or similar charges other than the fixed room rates are allowed when billing for rooms. Any other charges, such as amenities, room service, non-domestic telephone calls, etc. are not allowed and none of the foregoing are required to be provided by Hotel or HANYC.
- j. Commission and Fees: All Parties agree that, pursuant to this Hotel Agreement, there will be no broker's fees or commissions due to any party. This language shall not operate to disturb any obligation under the City's separate Agreement with HANYC. Each Party represents and warrants it has dealt with no broker in connection with the Hotel Agreement and Hotel will indemnify the other for all costs, liabilities and expenses (including reasonable attorneys' fees) if such representation and warranty is inaccurate or alleged to be inaccurate.
- k. **Payment Arrangements:**

Hotel shall invoice HANYC monthly at the end of each calendar month for its charges incurred during the preceding month that the City has preapproved in writing whether detailed herein or contracted after the signing of this document within three (3) business days after receipt of funds from the City. HANYC's obligation to pay is subject in all respects to City's payment to HANYC for such rooms and services. Hotel shall only have recourse against the City in the event of any failure to pay. At present, there are no preapproved vendors. Payment shall only be made for rooms that are available and delivered in clean and workable conditions. The pro-rata, per room rate of any rooms (i) not made available (ii) not delivered in clean and habitable conditions and/or (iii) not delivered with working furniture, microwaves, refrigerators and other appliances will be deducted from Rental Rate.
- l. The City will pay HANYC in accordance with the terms of the Administration Agreement.

II. City Responsibility

- 1) **Food:** The City agrees to provide Breakfast, Lunch and Dinner to all Guests. Any food preparations shall be handled by the City in compliance with applicable

rules and regulations. Such food preparation shall be handled off-site and delivered in individual sealed packages for distribution.

2) Security: 24-hour security will be provided by DHS in accordance with the City of New York DHS security plan. The City's security guards shall be present at access control, as well as available to monitor each floor of the hotel. The City's security shall also monitor the perimeter of the building and other locations within the hotel that are deemed necessary by the social service provider and DHS and/or the City. All hotel security located on site should coordinate with the City's security guards, however, the City's security shall be in charge of all of all interactions with Guests. The City's Security and the POC (as defined below) shall work together to address any security issues. In the event of a security breach of a material nature, HANYC or the Hotel shall immediately notify the City of such security breach and the City shall address such breach within five (5) days. If the City is unable to address a security breach of a material nature within such five (5) day period then HANYC or Hotel shall have the right to terminate within fifteen (15) days. The City through DHS shall use reasonable efforts to ensure that Guests comply with Hotel rules and applicable laws while staying at the Hotel.

III. Hotel and/or HANYC's Responsibilities

1) Uses/Rooms:

- a. The Hotel agrees to use of the Program Rooms for the aforementioned stated purpose unless prevented due to conditions beyond the Hotel's control.
- b. Each room provided by Hotel for Program use shall contain standard room furniture as well as microwaves and refrigerators, unless the City waives these requirements in whole or in part. In the event the City requires that certain standard room furniture must be removed, the Hotel shall remove such furniture as required. If any room is described as being ADA accessible on the Checklist, the Hotel shall keep all features, furniture, and attachments which make the room ADA accessible in good working order such that the room remains ADA accessible through the Termination Date.
- c. Storage: If onsite or offsite storage is required by the Hotel due to Program needs, Hotel shall be reimbursed based on prevailing regional rates for regional commercial bulk storage upon proof reasonably acceptable to the City of receipts of such fees paid by Hotel for such storage.
- d. Upon request, Hotel shall remove latch chains or similar interior door locking devices ("Privacy Latches"), if any, prior to occupancy by DHS clients. Hotel shall also provide the City with key cards for the all Program Rooms with electronic locks for emergency access to all Program Rooms.
- e. If any rooms in the Hotel are used as Single Room Occupancy lodging ("SROs"), those rooms shall be segregated from the Program Rooms in a manner acceptable to the City. Neither the SROs nor rooms needed to

effectively segregate the SROs from the Program Rooms shall be considered Program Rooms. The Hotel shall indicate any SROs on the Checklist.

2) Services:

- a. The Hotel must provide all information required in the Checklist to HANYC's POC, attached as Attachment 1 herein, upon request, and shall notify HANYC if there are any changes to such Checklist after its submission to HANYC.
- b. Point of Contact ("POC"): Hotel will identify on-site staff to serve as emergency contacts in the event that the Hotel or City of New York require an immediate response to any inquiry, and will submit name, cell phone number, email and other contact information for this purpose. HANYC or the City of New York reserves the right to require the Hotel to replace emergency contacts that fail to appropriately respond to emergencies. The Hotel POC shall be available on a 24 hour/ 7 days per week basis. HANYC shall also provide a POC who shall be available on the phone or by e-mail on a 24 hour/7 days per week basis but shall not be required to be on-site. Hotel's POC is [_____]. HANYC POC is [Ph 212-754-6700 Rhea@hanyc.org and Albert@hanyc.org Cell for emergency 646-660-2022 / 718-767-4067].
- c. Management Staff: Hotel shall assign on-site management to each Hotel as it would during normal hotel operations responsible for general hotel operations and management of the Hotel's staff. Such staff shall be available on a 24 hour, 7 days per week basis.
- d. Lobby Staff: Hotel shall assign reception/lobby attendants to provide front of house operations including but not limited to Program Room assignment, answering internal and external phone calls, coordinating with HANYC/the City and, if applicable, 3rd party contractors retained by the HANYC/City for services such as cleaning, housekeeping, maintenance and emergencies. The lobby staff shall be available on a 24 hour, 7 days per week basis. Lobby staff shall be responsible for contacting rooms with notifications as required by the City.
- e. Common Area Cleaning: All corridors, stairwells, elevators, and other common areas throughout the premises must be maintained by the Hotel in a clean and sanitary condition.
- f. Housekeeping/Room Cleaning: The Hotel will provide housekeeping service for any Program Rooms in accordance with Appendix 3 – Select Services Scope of Work.
 - (i) Isolation Program Rooms: The Hotel will provide housekeeping service for any Program Rooms before Guest check-

in and following Guest check-out. Additionally, upon request, the Hotel will provide cleaning supplies (i.e. rags, paper towels, wet towelettes and garbage bags) to any Guest that requests such items so that Guests can conduct light cleaning their rooms as needed.

(ii) Relocation Program Rooms: The Hotel will provide housekeeping service for any Program Rooms before Guest check-in, at least three times per week between Guest check-in and Guest check-out and upon Guest check-out.

Housekeeping services shall include delivering fresh linens service, sheets, blankets, pillows and pillowcases, towels, soap, etc. upon check-in. The linens shall be replaced on a one-for-one exchange two to three times per week, or sooner if soiled, during the Guest Term, so that Guests can change linens and towels as needed. Soiled linens shall either be placed in a bag and left outside the Guest's hotel door for Hotel to pick-up and exchange with clean linens left outside the door or the Hotel shall establish a designated spot to drop off soiled linens and towels, as determined by DHS at its discretion. Hotel shall also provide sufficient quantities according to the number of occupants in the room.

The Hotel agrees that if a Guest checks out between 9AM and 3PM, the Hotel shall make the room available for a subsequent Guest within four hours of such check out. If a Guest checks out between 3PM and 9AM, the Hotel shall make the room available for a subsequent guest by 10AM the following calendar day, or 3 hours after such check out, whichever is later. Guest rooms shall be cleaned before Guest check-in and after Guest check-out.

- g. Refuse and trash pickup: Trash pickup from Program Rooms is required daily in accordance with Appendix 3 – Select Services Scope of Work. Trash and refuse shall be left outside the Guests' hotel door and removed with a reasonable amount of time by the Hotel (i.e. before the end of the day), but in no event shall trash be left in the hallways overnight. Trash must be properly stored in covered receptacles appropriate to the volume of the container. Trash and debris cannot accumulate to levels where refuse overflows containment areas.
- h. Extermination and Pest control: Hotel shall provide extermination and pest control services as required. Extermination must be performed by a certified pesticide applicator. In addition, extermination must be performed monthly at the hotel and more often in Program Rooms as conditions require, and where vermin is identified. Exterminating activities cannot be performed while Guests are in the room. In the event any Guest does not cooperate with Hotel in connection with exterminating, Hotel shall not be obligated to exterminate in such Guest's room.

- i. Maintenance Staff: Hotel shall provide maintenance staff to support service calls (i.e. clogged toilet etc.) for Program Rooms.
- j. Building Engineer: The Hotel shall designate its building engineer or other appropriately knowledgeable building services employee to remain on site during the days and hours that the Hotel normally provides such building services employee in its regular course of business, to ensure that all building systems (HVAC, electrical, plumbing, including prevention of leaks throughout the building and/or the roof; elevator, etc.) and the maintenance of fully functional and operational systems at all times. The Hotel agrees to take all reasonable steps to make repairs or adjustments as requested by HANYC or the City. Further, the POC will provide a phone number for non-business hours so that he/she is responsive to any issue with the building systems.
- k. The Hotel shall provide a dedicated telephone line that will be utilized exclusively for communications covered under this Hotel Agreement.
- l. Telephone: All Program Rooms shall have unlimited domestic calls, and telephones shall be kept in working condition.
- m. Wi-fi: If hotel is equipped with wi-fi, Guests and any City staff or contractors shall have free access to wi-fi service 24 hours a day, 7 days a week.
- n. Personal Protective Equipment: Hotel, at its own cost and expense, shall provide personal protective equipment to all Hotel staff which are employed by or are contractors of the Hotel.

3) Repairs

- a. When a Hotel room is vacated, the Hotel agrees to prepare the room for usage by another Guest within twelve (12) hours.
- b. All requests for repairs, whether in rooms or common areas, must be addressed by the Hotel in a timely manner. However, The City shall pay the Hotel for any repairs required due to damages caused by Guests other than ordinary wear and tear within thirty (30) days of submission of an invoice for such repairs. Hotel shall keep furniture, microwaves, refrigerators and other appliances in operating condition.
- c. **Certificate of Occupancy:** HANYC shall inform each Participating Hotel that it must maintain or secure a valid Certificate of Occupancy or Temporary Certificate of Occupancy prior to execution of this Agreement. HANYC will obtain a representation and warranty from the Hotel, contained in the next sentence hereof, that it possesses a valid certificate of occupancy or temporary certificate of occupancy. The Hotel represents and warrants that it possesses a valid certificate of occupancy or temporary

certificate of occupancy. If during the term of the Hotel Agreement, a Participating Hotel has an expired Temporary Certificate of Occupancy, then the Hotel shall immediately provide the Department with a detailed plan for renewing the expired Temporary Certificate of Occupancy. If a Participating Hotel is unable to comply with the requirements outlined in this Section, DHS may issue a Corrective Action Plan (“CAP”) to notify the Hotel of any outstanding and/or delinquent issues. HANYC, with support from DHS, shall inform the Hotel of any CAP related issues that it is aware of and/or consult with the Hotel to complete any tasks related to resolving the CAP. The Hotel, with consultation from HANYC, shall then address any CAP related issues and/or complete any tasks related to implementing the CAP. If a Hotel is unable to implement the CAP, then DHS reserves the right, in its sole discretion after expiration of all grace and notice period provided for in this Agreement, to either reduce its occupancy, with a proportional decrease in monthly rent, or exit the premises, and HANYC shall then use reasonable efforts to replace the non-compliant Hotel. Except as otherwise agreed to by the Parties, the Participating Hotel shall be responsible for all maintenance and repairs of the hotel and/ or Program Rooms.

- d. **Violations:** HANYC shall inform each Participating Hotel that it must keep the premises free of New York City Department of Building (DOB), Fire Department of New York (FDNY), and Environmental Control Board (ECB) **Class 1-Violations** to the best of its abilities. Hotel shall resolve any such violations brought to its attention by HANYC and DHS. If any Class 1 violations exist either prior to use by the City, or at the time of execution of this Hotel Use Agreement, then HANYC and the Hotel shall prioritize their resolution at no cost to the city. The Hotel shall provide a list of such Class 1 violations to the City and HANYC prior to execution of this Agreement, and such violations may also be documented in a Corrective Action Plan (“CAP”) issued by DHS to the Hotel and HANYC. HANYC, with support from DHS, shall inform the Hotel of any delinquent and/or outstanding issues contained in the CAP that it is aware of, and/or consult with the Hotel to complete any tasks related to implementing the CAP. The Hotel, with consultation from HANYC, shall address any outstanding issues contained in the CAP, and/or complete any tasks related to implementing the CAP. Any notice by a city agency of a violation of code, rules or regulations issued during the contract period must be resolved promptly by the Hotel. In addition, if a Participating Hotel is unable to resolve the violations discussed in this Section, or unable to implement the CAP, DHS reserves the right, in its sole discretion after expiration of all grace and notice period provided for in this Agreement, to either reduce its occupancy, with a proportional decrease in monthly rent, or exit the Hotel’s premises, and HANYC shall then use reasonable efforts to replace the non-compliant Hotel.

- e. The Hotel shall have the right to enter the rooms at any and all times for inspection, repairs, and maintenance, and shall use reasonable care not to disturb any occupant of any room or its possessions in so doing, though exceptions to disturbance of an occupant may be made in the case of an emergency or if dangerous, unsanitary or hazardous conditions exist, or illegal activities are being conducted, in or about such room.
- f. Hotel shall maintain all safety devices, including smoke and carbon monoxide detectors, sprinklers, fire extinguishers, grab bars, etc. in proper operating condition. The City reserves the right to install window guards at its sole expense. The Hotel shall respond immediately to reports or communications from the Provider relating to inadequate safety situations. City will reimburse Hotel for removal of any window guards it installs within thirty (30) days of termination of agreement.

4) Alterations/Damage to Rooms

- a. The City agree that neither it nor any Guest may make any additions, alterations or "improvements" to the rooms.
- b. If any room or the means of access thereto shall be damaged by fire or other cause covered by multi-peril policies carried by the Hotel, the Hotel shall, at its own cost and expense, use such insurance proceeds, with reasonable dispatch after receipt of notice of said damage and receipt of such proceeds, to repair or replace or cause to be repaired or replaced, with materials of a kind and quality customary in buildings of the same type as the Premises, the rooms and the means of access thereto, including the walls, floors, ceiling, pipes, wiring, and conduits in the rooms. The Hotel shall not be required to repair or replace, or cause to be repaired or replaced equipment, furniture, or decorations installed by HANYC or any of its agents, contractors, employees, or Guests or any resident of the rooms or their guests.
- c. HANYC shall inform the Participating Hotel, and the Hotel acknowledges and agrees that if the damage resulting from fire or other insured cause shall be so extensive as to render any room partly or wholly unusable or to destroy the means of access thereto, the Rental Fee owed to the Hotel shall be proportionately abated (subject to clause 4(d) below) until that room shall be repaired. unless such damage was caused by a Guest, in which case the City's obligation to pay the full Rental Fee shall not be diminished in the case of repairs completed during the term, or in the case of repairs taking place after the expiration or other termination of the Agreement, the City shall pay the ordinary per room rate for such room, and in either case, the cost of repairs not covered by insurance. Neither HANYC nor the City will

be responsible for loss of potential income or any portion due to any disaster related closing (subject to clause 4(d) below).

- d. HANYC shall inform the Participating Hotel and the Hotel acknowledges and agrees that if any damage to the premises or its rooms is the result of the willful and wanton negligence of the City, its agents, contractors, employees, or Guests or any occupant of the rooms or their guests, the Rental Rate owed to the Hotel shall abate only to the extent of the rental value insurance collected by the Hotel with respect to that Program Room.
- e. HANYC shall inform the Participating Hotel and the Hotel acknowledges that the City will promptly reimburse the Hotel for the cost of repairing any extraordinary damages caused by the willful misconduct or negligence of the Guest. The Hotel agrees to hold HANYC and the City of New York, including its officials and employees, harmless for any damage caused by normal wear and tear, including but not limited to minor sheetrock repairs, repainting Program Rooms, or any other cosmetic treatment or related normal use of the room (i.e. cleaning comforters/drapes).
- f. HANYC and Hotel agree that damages will only be considered if appropriately documented via a joint walkthrough with the DHS service provider itemizing and photographing said damages. The City reserves the right to be present during any such walk-through. Invoices for damages must contain this documentation, including all itemized associated costs. In addition, HANYC shall provide prompt notice to the City of a request for damages, by utilizing the procedure outline in clause I(g) below.
- g. HANYC shall inform the Hotel, and the Hotel agrees that Hotel shall create an incident report related to any request for damage reimbursement from the City. Such incident report shall identify the damage and include the following:
 - 1. Date damage was discovered.
 - 2. Room number(s) affected by the aforementioned damage.
 - 3. Description of damages including photographic evidence.
 - 4. Participating Hotel and Provider's affirmation that they acknowledge the damage and its cause.
 - 5. Itemized estimate of repairs.
 - 6. Any additional supports that validate the claim.

- h. Reimbursement for damages will be considered on a monthly basis by HANYC and the City.

5) Communication

- a. Inquiries regarding any Guest or event involving a Guest must be referred to the City of New York DHS. Hotel and HANYC must provide immediate notice to the City of New York DHS of any emergency response situation occurring on the premises.
- b. The Contact for the City of New York regarding any communication shall be Chanell Miller, Director of Strategic Initiatives.

6) Back-Up Generators and other Alterations:

Hotel, upon request from HANYC or the City, shall enter into good faith discussions regarding Hotel connecting a back-up generator provided by the City to the buildings electrical system or other alterations to the building necessary for the City to conduct its operations in the building, all at no cost or expense to the Hotel or HANYC.

7) Confidentiality

All individual identifying information, including Guest names, received by or in the possession of either party in the course of this Hotel Agreement shall be kept confidential and shall not be disclosed except in the terms of this Hotel Agreement, or allowed or mandated by applicable law.

All individual identifying information concerning public assistance recipients or their relatives, or in connection with other recipients of city services, shall be held confidential pursuant to the Federal Social Security Act, New York State Social Services Law Section 136, 18 NYCRR Part 357 et seq., New York State Public Health Law Article 27-F, and New York State Mental Health Laws as well as New York State Privacy and Public Officers Laws and any other applicable law and the regulations promulgated there under and shall not be disclosed by any person associated with this Hotel Agreement to any person, organization, agency or entity except as provided herein. The provisions of this Section shall remain in full force and effect following termination of this Hotel Agreement, or cessation of the services required by, this agreement

IV. The Parties' Joint Responsibilities

1) **Insurance**

A. Hotel shall maintain workers' compensation insurance, employers' liability insurance, and disability benefits insurance, in accordance with Law on behalf of, or in regard to, all employees of the Hotel providing services under this Hotel Agreement

B. Within 10 Days of award of this Hotel Agreement and as required by N.Y. Workers' Compensation Law §§ 57 and 220(8), the Hotel shall submit proof of workers' compensation insurance and disability benefits insurance (or proof of a legal exemption) to the City in a form acceptable to the New York State Workers' Compensation Board. ACORD forms are not acceptable proof of such insurance. The following forms are acceptable:

1. Form C-105.2, *Certificate of Workers' Compensation Insurance*;
2. Form U-26.3, *State Insurance Fund Certificate of Workers' Compensation Insurance*;
3. Form SI-12, *Certificate of Workers' Compensation Self-Insurance*;
4. Form GSI-105.2, *Certificate of Participation in Worker's Compensation Group Self-Insurance*;
5. Form DB-120.1, *Certificate of Disability Benefits Insurance*;
6. Form DB-155, *Certificate of Disability Benefits Self-Insurance*;
7. Form CE-200 – *Affidavit of Exemption*;
8. Other forms approved by the New York State Workers' Compensation Board; or
9. Other proof of insurance in a form acceptable to the City.

2) **Commercial General Liability Insurance.** The Hotel shall maintain Commercial General Liability insurance in the amount of at least Two Million Dollars (\$2,000,000) per occurrence for bodily injury (including death) and at least Four Million Dollars (\$4,000,000) in the aggregate. Coverage must be at least as broad as the coverage provided by the most recently issued ISO Form CG 00 01, primary and non-contributory, and "occurrence" based rather than "claims-made." Such coverage shall list HANYC and the City together with their respective officials, service providers, contractors and employees, as an additional insured with coverage at least as broad as the most recently issued ISO Form CG 20 10 or CG 20 26.

3) **Indemnification & Insurance:**

To the fullest extent permitted by Law, the Hotel shall defend, indemnify, and hold harmless HANYC and the City, including their respective officials, contractors, service providers, and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages on account of any injuries or death to any person or damage to any property, and costs and expenses to which HANYC, the City, or their respective contractors, service providers, officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Hotel and/or its subcontractors under this Hotel Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, and/or the failure to comply with Law or any of the requirements of this

Hotel Agreement. Insofar as the facts or law relating to any of the foregoing would preclude HANYC, the City, or their respective officials, contractors, service providers or employees from being completely indemnified by the Hotel, HANYC, and the City, and their respective officials, contractors, service providers and employees shall be partially indemnified by the Hotel to the fullest extent permitted by Law.

The City shall indemnify, defend, and hold harmless the Hotel, its manager(s), their respective owners, affiliates and subsidiaries, the successors and assigns of the foregoing, and each of their respective officers, managers, members, partners, directors, employees, contractors, agents and representatives and their successors and assigns (collectively, the “Hotel Parties”) from and against any and all losses, damages, causes of action, suits, claims, judgments or expenses, including but not limited to fees and court costs (collectively, “Claims”), made or asserted by any third parties (including any third party actions of employees of the Hotel or Guests), which Claims may be of any nature, including, without limitation, for bodily injury, death, sickness (including any and all COVID-19 related exposures or claims), or property damage, or other injuries, caused by the use or occupancy of the Hotel Property or the use of any Hotel Property services (“Services”) by the City or any of the City’s servants, agents, licensees, employees, contractors, subcontractors, volunteers, Guests or other invitees (collectively, “Invitees”), or from the City’s breach of any of its representations, warranties, covenants or obligations or default under the Hotel Agreement, excluding Claims arising from the negligence or intentional tortious acts of any Hotel Party.

Each of the City and the Hotel agree that neither party will look to HANYC for any breach of this Agreement by the City or the Hotel.

4) Governing Law:

The Hotel Agreement will be governed by and interpreted pursuant to the laws of the State of New York, excluding any laws regarding the choice or conflict of laws.

V. Additional Applicable Terms

1) Incorporation of Exhibits & Order of Priority

The Parties agree to and incorporate as though set forth fully herein the terms and conditions set forth in the following attached Exhibits and Appendices: Exhibit A: The City’s Standard Terms and Conditions; Exhibit B: the New York City General Provisions Governing Contracts for Consultants, Professional, Technical, Human, and Client Services (“Appendix A”); Exhibit C: Federal Emergency Management Agency (“FEMA”) Rider for COVID-19 (the “FEMA Rider”); Appendix 1, the City’s New York State Sales Tax Exemption Certificate; Appendix 2: Assistance to People with Disabilities; Appendix 3: Select Services Scope of Work; Appendix 4: Change of Use Notice; and Attachment 1: the checklist of required information regarding participating hotels (“Checklist”). In the event of a conflict between the Hotel Agreement and any of the Exhibits incorporated herein, the following order of governance will apply: (1) the FEMA Rider; (2) this Hotel Agreement, including Attachment 1 (3) Exhibit A; (4) Exhibit B; (5) Appendix 3; (6) Appendix 2; (7) Appendix 4; (8) Appendix 1.

2) Entire Agreement

This Hotel Agreement, including the exhibits and appendices attached hereto, constitutes the entire Agreement of the Parties with respect to the subject matter of this Agreement, though the parties acknowledge that this Hotel Agreement is being entered into pursuant to a separate agreement between ANYC and the City. Notwithstanding anything in this section, this Hotel Agreement shall not operate to limit the efficacy of such separate agreement. If any provision of this Hotel Agreement is found invalid or unenforceable, the remainder of the Hotel Agreement will still be valid and enforceable to the fullest extent permitted by law.

This Hotel Agreement may not be modified or amended except in writing and signed by all Parties.

3) Counterparts and Electronic Signatures

This Hotel Agreement may be signed in multiple counterparts with the same effect as if the Parties had signed the same document. The counterparts of this Hotel Agreement may be signed and delivered electronically (including by email or "PDF"). All signatures so obtained and transmitted shall be deemed to be original signatures for all purposes under this Hotel Agreement.

HANYC: _____

Name: _____

Title: _____

HOTEL: _____

Name: _____

Title: _____

Hotel: _____

**City of New York
Department of Homeless Services**

Name: _____

Title: _____

Exhibit A

The City's Standard Terms and Conditions

Definitions

Agreement: the "Hotel Agreement," as defined in the Hotel Agreement.

New York City is a municipal corporation, of the State of New York.

Claims: any and all liabilities, losses, damages, causes of action, suits, claims, judgments or expenses, including reasonable attorneys' fees and court costs and expenses.

Invitees: collectively, any of the City's servants, agents, licensees, employees, contractors, volunteers, or invitees (including without limitation any persons the City permits or causes to occupy any rooms in the Property (a "Guest").

Property: the real property and improvements thereon located at and operated by the Hotel as the Hotel.

Period of Use: the term of the agreement set forth in the section I€ of the Hotel Agreement.

Guest Term: the time period an individual Guest occupies a Program Room.

Article I. Construction

1. Defined Terms.

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms set forth in the Program Rooms and Meeting Space Agreement.

Article II. Terms and Conditions

1. Licenses and Permits.

The City acknowledges that the Property is not licensed as a facility to provide inpatient or outpatient medical care or house medical patients or for use as a homeless shelter of anything else other than use as a hotel. The City shall, at its cost and expense, obtain any and all permits, licenses, and other approvals necessary for any activities or services it will conduct or provide on the Property. Nothing contained herein shall be deemed a representation by the Hotel that such use is legal or that such permits, licenses, and other approvals are obtainable. The Hotel shall reasonably cooperate with the City, upon request, to obtain any such permits, licenses, and other approvals, provided that the Hotel shall not incur any cost or expense in connection therewith.

2. No Representations or Warranties Regarding Property.

The Hotel represents and warrants that the Program Rooms are adequate for use for ordinary hotel purposes. The Hotel makes no other representations or warranties regarding the condition of the Property. The City accepts the use of the Property in its "AS IS, WHERE IS"

condition with all faults. The City acknowledges and agrees that the Property was not designed or intended to be used as a facility to provide inpatient or outpatient medical care or house patients, and does not contain the medical infrastructure necessary for patient care or the storage, handling or disposal of medical products and medical waste. In addition, the City acknowledges that the hotel and property is not licensed for use as a homeless shelter of anything else other than use as a hotel.

3. Provision of Medical Care; Storage, Handling, and Disposal of Medical Products and Waste.

Any medical care or services that are provided by the City at the Hotel will be provided by duly licensed persons to the extent such persons are required to be licensed to provide such services. The City covenants and agrees that at all times during the Period of Use, all medical products and medical waste used or generated in the provision of medical care and services at the Hotel will be stored, handled and disposed of in accordance with applicable law.

HOTEL EXPRESSLY DISCLAIMS ANY RESPONSIBILITY OR OBLIGATION TO PROVIDE ANY MEDICAL CARE OR MEDICAL SERVICES TO THE CITY'S INVITEES, GUESTS, OR TO STORE, HANDLE OR DISPOSE OF ANY MEDICAL PRODUCTS OR MEDICAL WASTE.

4. Protected Health Information, Confidentiality and Other Personal Information concerning Guests.

The City covenants and agrees that it shall not provide any "Protected Health Information" (as such term is defined by the Health Insurance Portability and Accountability Act of 1996 (as amended) ("HIPAA")) to Hotel, and shall take all reasonable precautions to avoid inadvertent disclosure of Protected Health Information to Hotel. To the extent the Hotel comes into possession of any Protected Health Information, Hotel shall promptly return such information to the City and shall not use, copy or transmit such information for any purpose. For the avoidance of doubt, the Hotel shall not be deemed a Business Associate (as such term is defined by HIPAA) and shall not be subject to the rules and regulations of HIPAA.

Hotel covenants and agrees that any personally identifying information about Guests that it may learn or collect in connection with this agreement shall be kept as confidential, and such information shall not be used, accessed, stored, or disclosed for any other purpose other than to fulfill its obligations under this agreement, unless required by law. Hotel further agrees that it will maintain appropriate physical, administrative, and technological safeguards to protect the privacy of this information, including but not limited to by limiting access to only those Hotel employees who need to access the information in order to perform their duties in connection with this agreement. This section shall also apply to any third party vendors contracted by the hotel to provided services as outlines in this agreement.

Confidentiality:

Hotel and HANYC will use reasonable efforts to restrict access to any Guest information collected or learned in connection with this agreement to its employees and contractors who need to access it in order to deliver services under this agreement, including by using appropriate

physical, technological, and procedural safeguards as appropriate to restrict access to such information. Neither HANYC nor Hotel will not disclose Guest information except as authorized in this agreement or as required by law or legal process. If HANYC or Hotel are required by law to disclose Guest information, they will notify the City promptly.

If HANYC or Hotel discovers unauthorized access to or disclosure of Guest information, they will promptly notify the City after discovery, and in such instance, HANYC or Hotel will reasonably cooperate with the City to investigate the matter and mitigate against any further unauthorized disclosure of the information.

If the City instructs HANYC or Hotel to destroy any Guest information, they will destroy it no more than five business days following notification by the City except as required by law. HANYC or Hotel will inform the City that they have destroyed this information no more than sixty days after the City's instruction to do so. If HANYC or Hotel did not destroy such information, then HANYC or Hotel will explain in writing why, and in such case, will immediately cease to use such information upon receiving the destruction request from the City.

HANYC or Hotel will use reasonable efforts to make sure that their employees and contractors understand and comply with the restrictions on handling Guest information.

This section shall survive the termination of this Agreement.

5. Intentionally Omitted.

6. Visitors.

No general visitation by outsiders will be permitted to persons or Guests occupying Program Rooms at the Property except as authorized or required by law. The City will be responsible for screening and limiting visitors to any of the Guests occupying Program Rooms at the Property.

OTHER THAN AS PROVIDED FOR IN THE HOTEL AGREEMENT, HOTEL EXPRESSLY DISCLAIMS ANY RESPONSIBILITY OR OBLIGATION TO CONTROL OR SECURE ACCESS TO ANY OF THE PROGRAM ROOMS. HOTEL TO PROVIDE SECURITY SERVICES AS IT TYPICALLY PROVIDES IN ITS NORMAL PERIMETER SECURITY.

7. To the extent the City is required to make any payments or reimbursements to the Hotel, the City shall make such payments to HANYC and HANYC will make such payments the Hotel.

8. Intentionally Omitted.

9. Surrender and Restoration.

Upon expiration (or earlier termination) of this Agreement, the City shall peacefully surrender the Property to the Hotel in as good order and condition and repair as when received, except for reasonable, ordinary use and wear thereof. The City shall ensure, at no cost to the Hotel, that all its employees, Guests, and invitees have completely vacated the Property prior to the

expiration (or earlier termination) of this Agreement. The City, at its own cost and expense, shall restore any portion of the Property damaged by its Invitees and any Guests or employees or DHS to the same condition as existed prior to the use by City and its Invitees and Guests and shall be responsible for immediately repairing and/or restoring any damage to the Property and to any Hotel personal property to the extent that the City's Invitees occupy such Property or uses such personal property.

Any improvements or betterments made by the City, to the Property (which may only be made with the prior written consent of the Hotel) shall inure to and remain the property of the Hotel. If the City or any of its Invitees or Guests fails to leave any of the Program Rooms or fails to surrender any other area of the Property, the Hotel may charge the City a fee for each day that the City or such Invitee fails to surrender the Program Room or other area in an amount that is equal to two times its standard room rates and the City shall pay all costs and expense reasonably incurred in evicting any Invitee or Guest who fails to leave any of the Program Rooms at the end of the Period of Use. The City agrees that, in addition to the remedies expressly provided for herein, the Hotel shall have all remedies available at law or in equity for the City's failure to comply with this provision.

10. Intentionally Omitted.

11. Intentionally Omitted.

12. Electricity

Hotel will furnish an electrical system in the Program Room Block having a capacity of not less than 5 watts per square foot. Except as otherwise expressly provided in this Section 12 and elsewhere in this Hotel Agreement, the Hotel shall not be obligated to provide any services or goods hereunder, other than hot and cold running water and heat and air conditioning, as required.

13. Emergency Maintenance and Repairs

. The City will notify the Hotel of any emergency and request the Hotel to perform all necessary repairs and remediation. All emergency repair and remediation performed by the Hotel will be completed within forty-eight (48) hours from the time of notification, or if not possible, as soon as possible thereafter. Emergency repairs include, but are not limited to the following:

Failure of heating/cooling system to maintain specific temperature

Failure of water system, including hot water, or colored, odorous, or contaminated water
Inadequate or no water pressure

Leaking water pipes Blocked or leaking drains Electrical failure

Sewage system malfunction

Failure of security or fire protection systems, including alarms and sprinklers

Repair/replace exterior windows and doors including plate glass, if applicable

14. Notices

A. Any notice required to be given shall be in writing and shall either be sent by e-mail or Express or certified mail, return receipt requested and addressed or delivered personally to Hotel at the following e-mail and delivery addresses:

or to HANYC at the following email and delivery addresses:

Vijay Dandapani, President & CEO
Hotel Association of New York City
34 East 51st Street, 8th Floor, New York, NY 10022
T: (212) 754-6700 F: (212) 754-6703

or to the City addressed at the following address:

Chanell Miller, Director of Strategic Initiatives
33 Beaver Street,
New York, NY 10004
cmiller@dhs.nyc.gov

Any of the Parties may change its address as set forth herein by notice to the others in the manner provided for herein. Notice shall be deemed given as of the date of mailing or date of personal delivery.

Exhibit B

**the New York City General Provisions Governing Contracts for Consultants, Professional, Technical,
Human, and Client Services (“Appendix A”)**

APPENDIX A

**GENERAL PROVISIONS GOVERNING CONTRACTS FOR CONSULTANTS,
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ARTICLE 1 – DEFINITIONS

Section 1.01 Definitions

The following words and expressions, or pronouns used in their stead, shall, wherever they appear in this Agreement, be construed as follows, unless a different meaning is clear from the context:

A. “Agency Chief Contracting Officer” or “ACCO” means the position delegated authority by the Agency Head to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the City Chief Procurement Officer.

B. “Agreement” means the various documents, including this Appendix A, that constitute the contract between the Contractor and the City.

C. “City” means the City of New York.

D. “City Chief Procurement Officer” or “CCPO” means the position delegated authority by the Mayor to coordinate and oversee the procurement activity of Mayoral agency staff, including the ACCOs.

E. “Commissioner” or “Agency Head” means the head of the Department or his or her duly authorized representative. The term “duly authorized representative” shall include any person or persons acting within the limits of his or her authority.

F. “Comptroller” means the Comptroller of the City of New York.

G. “Contractor” means the entity entering into this Agreement with the City.

H. “Days” means calendar days unless otherwise specifically noted to mean business days.

I. “Department” or “Agency” means the City agency or office through which the City has entered into this Agreement.

J. “Law” or “Laws” means the New York City Charter (“Charter”), the New York City Administrative Code (“Admin. Code”), a local rule of the City of New York, the Constitutions of the United States and the State of New York, a statute of the United States or of the State of New York and any ordinance, rule or regulation having the force of law and adopted pursuant thereto, as amended, and common law.

K. “Procurement Policy Board” or “PPB” means the board established pursuant to Charter § 311 whose function is to establish comprehensive and consistent procurement policies and rules that have broad application throughout the City.

L. “PPB Rules” means the rules of the Procurement Policy Board as set forth in Title 9 of the Rules of the City of New York (“RCNY”), § 1-01 et seq.

M. “SBS” means the New York City Department of Small Business Services.

N. "State" means the State of New York.

ARTICLE 2 – REPRESENTATIONS, WARRANTIES, CERTIFICATIONS, AND DISCLOSURES

Section 2.01 Procurement of Agreement

A. The Contractor represents and warrants to the best of its knowledge that, with respect to securing or soliciting this Agreement, the Contractor is in compliance with the requirements of the New York State Lobbying Law (Legislative Law §§ 1-a et seq.). The Contractor makes such representation and warranty to induce the City to enter into this Agreement and the City relies upon such representation and warranty in the execution of this Agreement.

B. For any breach or violation of any material representation and warranty set forth in Paragraph A above, the Commissioner shall have the right to annul this Agreement without liability, entitling the City to recover all monies paid to the Contractor; and the Contractor shall not make claim for, or be entitled to recover, any sum or sums due under this Agreement following such annulment. The rights and remedies of the City provided in this Section 2.01(B) are not exclusive and are in addition to all other rights and remedies allowed by Law or under this Agreement.

Section 2.02 Conflicts of Interest

A. The Contractor represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which conflicts in any manner or degree with the performance of this Agreement. The Contractor further represents and warrants that no person having such interest or possible interest shall be employed by or connected with the Contractor in the performance of this Agreement.

B. Consistent with Charter § 2604 and other related provisions of the Charter, the Admin. Code and the New York State Penal Law, no elected official or other officer or employee of the City, nor any person whose salary is payable, in whole or in part, from the City Treasury, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or other entity in which he or she is, directly or indirectly, interested; nor shall any such official, officer, employee, or person have any interest in, or in the proceeds of, this Agreement. This Section 2.02(B) shall not prevent directors, officers, members, partners, or employees of the Contractor from participating in decisions relating to this Agreement where their sole personal interest is in the Contractor.

C. The Contractor shall not employ a person or permit a person to serve as a member of the Board of Directors or as an officer of the Contractor if such employment or service would violate Chapter 68 of the Charter.

Section 2.03 Certification Relating to Fair Practices

A. The Contractor and each person signing on its behalf certifies, under penalties of perjury, that to the best of its, his or her knowledge and belief:

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1. The prices and other material terms set forth in this Agreement have been arrived at independently, without collusion, consultation, communication, or agreement with

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any other bidder or proposer or with any competitor as to any matter relating to such prices or terms for the purpose of restricting competition;

2. Unless otherwise required by Law or where a schedule of rates or prices is uniformly established by a government agency through regulation, policy, or directive, the prices and other material terms set forth in this Agreement that have been quoted in this Agreement and on the bid or proposal submitted by the Contractor have not been knowingly disclosed by the Contractor, directly or indirectly, to any other bidder or proposer or to any competitor prior to the bid or proposal opening; and

3. No attempt has been made or will be made by the Contractor to induce any other person or entity to submit or not to submit a bid or proposal for the purpose of restricting competition.

B. The fact that the Contractor (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has sold the same items to other customers at the same prices and/or terms being bid or proposed, does not constitute, without more, a disclosure within the meaning of this Section 2.03.

Section 2.04 Disclosures Relating to Vendor Responsibility

The Contractor represents and warrants to the best of its knowledge that it has duly executed and filed all disclosures as applicable, in accordance with Admin. Code § 6-116.2, PPB Rule § 2-08, and the policies and procedures of the Mayor's Office of Contract Services. The Contractor acknowledges that the Department's reliance on the completeness and veracity of the information stated therein is a material condition to the execution of this Agreement, and the Contractor represents and warrants that the information it and its principals have provided is accurate and complete.

Section 2.05 Disclosure Relating to Bankruptcy and Reorganization

If the Contractor files for bankruptcy or reorganization under Chapter Seven or Chapter Eleven of the United States Bankruptcy Code, the Contractor shall disclose such action to the Department within seven days of filing.

Section 2.06 Authority to Execute Agreement

The Contractor represents and warrants that: (i) its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on its part; (ii) it has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; and (iii) once executed and delivered, this Agreement will constitute its legal, valid and binding obligation, enforceable in accordance with its terms.

ARTICLE 3 – ASSIGNMENT AND SUBCONTRACTING

Section 3.01 Assignment

A. The Contractor shall not assign, transfer, convey, or otherwise dispose of this Agreement, or the right to execute it, or the right, title, or interest in or to it or any part of it, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Agreement, without the prior written consent of the Commissioner. The giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments. Any such assignment, transfer, conveyance, or other disposition without such written consent shall be void.

B. Before entering into any such assignment, transfer, conveyance, or other disposal of this Agreement, the Contractor shall submit a written request for approval to the Department giving the name and address of the proposed assignee. The proposed assignee's disclosure that is required by PPB Rule § 2-08(e) must be submitted within 30 Days after the ACCO has granted preliminary written approval of the proposed assignee, if required. Upon the request of the Department, the Contractor shall provide any other information demonstrating that the proposed assignee has the necessary facilities, skill, integrity, past experience, and financial resources to perform the specified services in accordance with the terms and conditions of this Agreement. The Department shall make a final determination in writing approving or disapproving the assignee after receiving all requested information.

C. Failure to obtain the prior written consent to such an assignment, transfer, conveyance, or other disposition may result in the revocation and annulment of this Agreement, at the option of the Commissioner. The City shall thereupon be relieved and discharged from any further liability and obligation to the Contractor, its assignees, or transferees, who shall forfeit all monies earned under this Agreement, except so much as may be necessary to pay the Contractor's employees.

D. The provisions of this Section 3.01 shall not hinder, prevent, or affect an assignment by the Contractor for the benefit of its creditors made pursuant to the Laws of the State.

E. This Agreement may be assigned, in whole or in part, by the City to any corporation, agency, or instrumentality having authority to accept such assignment. The City shall provide the Contractor with written notice of any such assignment.

Section 3.02 Subcontracting

A. In accordance with PPB Rule § 4-13, all subcontractors must be approved by the Department prior to commencing work under a subcontract.

1. *Approval when subcontract is \$20,000 or less.* The Department hereby grants approval for all subcontractors providing services covered by this Agreement pursuant to a subcontract in an amount that does not exceed \$20,000.00. The Contractor must submit monthly reports to the Department listing all such subcontractors and shall list the

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subcontractor in the City's Payee Information Portal (www.nyc.gov/pip).

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2. *Approval when subcontract is greater than \$20,000.*

a. The Contractor shall not enter into any subcontract for an amount greater than \$20,000.00 without the prior approval by the Department of the subcontractor.

b. Prior to entering into any subcontract for an amount greater than \$20,000.00, the Contractor shall submit a written request for the approval of the proposed subcontractor to the Department giving the name and address of the proposed subcontractor, the portion of the work and materials that it is to perform and furnish, and the estimated cost of the subcontract. If the subcontractor is providing professional services under this Agreement for which professional liability insurance or errors and omissions insurance is reasonably commercially available, the Contractor shall submit proof of professional liability insurance in the amount required by Article 7. In addition, the Contractor shall list the proposed subcontractor in the City's Payee Information Portal (www.nyc.gov/pip) and provide the following information: maximum subcontract value, description of subcontractor work, start and end date of the subcontract, and the subcontractor's industry.¹

c. Upon receipt the information required above, the Department in its discretion may grant or deny preliminary approval for the Contractor to contract with the subcontractor.

d. The Department shall notify the Contractor within 30 Days whether preliminary approval has been granted. If preliminary approval is granted, the Contractor shall provide such documentation as may be requested by the Department to show that the proposed subcontractor has the necessary facilities, skill, integrity, past experience and financial resources to perform the required work, including, the proposed subcontract and/or any of the items listed in PPB Rule 4-13(d)(3).

e. Upon receipt of all relevant documentation, the Department shall notify the Contractor in writing whether the proposed subcontractor is approved. If the proposed subcontractor is not approved, the Contractor may submit another proposed subcontractor unless the Contractor decides to do the work. No subcontractor shall be permitted to perform work unless approved by the Department.

f. For proposed subcontracts that do not exceed \$25,000.00, the Department's approval shall be deemed granted if the Department does not issue a written approval or disapproval within 45 Days of the Department's receipt of the written request for approval or, if PPB Rule 2-08(e) is applicable, within 45 Days of the Department's acknowledged receipt of fully completed disclosures for the subcontractor.

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¹ Assistance establishing a Payee Information Portal account and using the system may be obtained by emailing the Financial Information Services Agency Help Desk at pip@fisa.nyc.gov.

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B. All subcontracts must be in writing. All subcontracts shall contain provisions specifying that:

1. The work performed by the subcontractor must be in accordance with the terms of the Agreement between the City and the Contractor;
2. Nothing contained in the agreement between the Contractor and the subcontractor shall impair the rights of the City;
3. Nothing contained in the agreement between the Contractor and the subcontractor, or under the Agreement between the City and the Contractor, shall create any contractual relation between the subcontractor and the City; and
4. The subcontractor specifically agrees to be bound by Section 4.05(D) and Article 5 of this Appendix A and specifically agrees that the City may enforce such provisions directly against the subcontractor as if the City were a party to the subcontract.

C. The Contractor agrees that it is as fully responsible to the Department for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by such subcontractors as it is for the acts and omissions of any person directly employed by it.

D. For determining the value of a subcontract, all subcontracts with the same subcontractor shall be aggregated.

E. The Department may revoke the approval of a subcontractor granted or deemed granted pursuant to Section 3.02(A) if revocation is deemed to be in the interest of the City in writing on no less than 10 Days' notice unless a shorter period is warranted by considerations of health, safety, integrity issues, or other similar factors. Upon the effective date of such revocation, the Contractor shall cause the subcontractor to cease all work under the Agreement. The City shall not incur any further obligation for services performed by such subcontractor pursuant to this Agreement beyond the effective date of the revocation. The City shall pay for services provided by the subcontractor in accordance with this Agreement prior to the effective date of revocation.

F. The Department's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties, and liabilities under this Agreement. At the request of the Department, the Contractor shall provide the Department a copy of any subcontract.

G. Individual employer-employee contracts are not subcontracts subject to the requirements of this Section 3.02.

H. The Contractor shall report in the City's Payee Information Portal payments made to each subcontractor within 30 days of making the payment. If any of the information provided in accordance with Section 3.02(A)(2)(b) changes during the term of this Agreement, the Contractor shall update the information in such Portal accordingly. Failure of the Contractor to list a subcontractor and/or to report subcontractor payments in a timely fashion may result in the Department declaring the Contractor in default of the Agreement and will subject Contractor to

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liquidated damages in the amount of \$100 per day for each day that the Contractor fails to identify
a

subcontractor along with the required information about the subcontractor and/or fails to report payments to a subcontractor, beyond the time frames set forth herein or in the notice from the City.

ARTICLE 4 – LABOR PROVISIONS

Section 4.01 Independent Contractor Status

The Contractor and the City agree that the Contractor is an independent contractor and not an employee, subsidiary, affiliate, division, department, agency, office, or unit of the City. Accordingly, the Contractor and its employees, officers, and agents shall not, by reason of this Agreement or any performance pursuant to or in connection with this Agreement, assert the existence of any relationship or status on the part of the Contractor, with respect to the City, that differs from or is inconsistent with that of an independent contractor.

Section 4.02 Employees and Subcontractors

All persons who are employed by the Contractor and all the Contractor's subcontractors (including without limitation, consultants and independent contractors) that are retained to perform services under or in connection with this Agreement are neither employees of the City nor under contract with the City. The Contractor, and not the City, is responsible for their work, direction, compensation, and personal conduct while the Contractor is engaged under this Agreement. Nothing in this Agreement, and no entity or person's performance pursuant to or in connection with this Agreement, shall create any relationship between the City and the Contractor's employees, agents, subcontractors, or subcontractor's employees or agents (including without limitation, a contractual relationship, employer-employee relationship, or quasi-employer/quasi-employee relationship) or impose any liability or duty on the City (i) for or on account of the acts, omissions, liabilities, rights or obligations of the Contractor, its employees or agents, its subcontractors, or its subcontractor's employees or agents (including without limitation, obligations set forth in any collective bargaining agreement); or (ii) for taxes of any nature; or (iii) for any right or benefit applicable to an official or employee of the City or to any officer, agent, or employee of the Contractor or any other entity (including without limitation, Workers' Compensation coverage, Employers' Liability coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage, employee health and welfare benefits or employee retirement benefits, membership or credit). The Contractor and its employees, officers, and agents shall not, by reason of this Agreement or any performance pursuant to or in connection with this Agreement, (i) hold themselves out as, or claim to be, officials or employees of the City, including any department, agency, office, or unit of the City, or (ii) make or support in any way on behalf of or for the benefit of the Contractor, its employees, officers, or agents any demand, application, or claim upon or against the City for any right or benefit applicable to an official or employee of the City or to any officer, agent, or employee of the Contractor or any other entity. Except as specifically stated in this Agreement, nothing in the Agreement and no performance pursuant to or in connection with the Agreement shall impose any liability or duty on the City to any person or entity whatsoever.

Section 4.03 Removal of Individuals Performing Work

The Contractor shall not have anyone perform work under this Agreement who is not competent, faithful, and skilled in the work for which he or she shall be employed. Whenever the Commissioner shall inform the Contractor, in writing, that any individual is, in his or her opinion,

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incompetent, unfaithful, or unskilled, such individual shall no longer perform work under this Agreement. Prior to making a determination to direct a Contractor that an individual shall no longer perform work under this Agreement, the Commissioner shall provide the Contractor an opportunity to be heard on no less than five Days' written notice. The Commissioner may direct the Contractor to prohibit the individual from performing work under the Agreement pending the opportunity to be heard and the Commissioner's determination.

Section 4.04 Minimum Wage; Living Wage

A. Except for those employees whose minimum wage is required to be fixed in accordance with N.Y. Labor Law §§ 220 or 230 or by Admin. Code § 6-109, all persons employed by the Contractor in the performance of this Agreement shall be paid, without subsequent deduction or rebate, unless expressly authorized by Law, not less than the minimum wage as prescribed by Law. Any breach of this Section 4.04 shall be deemed a material breach of this Agreement.

B. If this Agreement involves the provision of homecare services, day care services, head start services, services to persons with cerebral palsy, building services, food services, or temporary services, as those services are defined in Admin. Code § 6-109 ("Section 6-109"), in accordance with Section 6-109, the Contractor agrees as follows:

1. The Contractor shall comply with the requirements of Section 6-109, including, where applicable, the payment of either a prevailing wage or a living wage, as those terms are defined in Section 6-109.

2. The Contractor shall not retaliate, discharge, demote, suspend, take adverse employment action in the terms and conditions of employment or otherwise discriminate against any employee for reporting or asserting a violation of Section 6-109, for seeking or communicating information regarding rights conferred by Section 6-109, for exercising any other rights protected under Section 6-109, or for participating in any investigatory or court proceeding relating to Section 6-109. This protection shall also apply to any employee or his or her representative who in good faith alleges a violation of Section 6-109, or who seeks or communicates information regarding rights conferred by Section 6-109 in circumstances where he or she in good faith believes it applies.

3. The Contractor shall maintain original payroll records for each of its covered employees reflecting the days and hours worked on contracts, projects, or assignments that are subject to the requirements of Section 6-109, and the wages paid and benefits provided for such hours worked. The Contractor shall maintain these records for the duration of the term of this Agreement and shall retain them for a period of four years after completion of this Agreement. For contracts involving building services, food services, or temporary services, the Contractor shall submit copies of payroll records, certified by the Contractor under penalty of perjury to be true and accurate, to the Department with every requisition for payment. For contracts involving homecare, day care, head start or services to persons with cerebral palsy, the Contractor shall submit either certified payroll records or categorical information about the wages, benefits, and job classifications of covered employees of the Contractor, and of any subcontractors, which shall be the substantial equivalent of the

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information required in Section 6- 109(2)(a)(iii).

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4. The Contractor and all subcontractors shall pay all covered employees by check and shall provide employees check stubs or other documentation at least once each month containing information sufficient to document compliance with the requirements of the Living Wage Law concerning living wages, prevailing wages, supplements, and health benefits. In addition, if this Agreement is for an amount greater than \$1,000,000.00, checks issued by the Contractor to covered employees shall be generated by a payroll service or automated payroll system (an in-house system may be used if approved by the Department). For any subcontract for an amount greater than \$750,000.00, checks issued by a subcontractor to covered employees shall be generated by a payroll service or automated payroll system (an in-house system may be used if approved by the Department).

5. The Department will provide written notices to the Contractor, prepared by the Comptroller, detailing the wages, benefits, and other protections to which covered employees are entitled under Section 6-109. Such notices will be provided in English, Spanish and other languages spoken by ten percent or more of a covered employer's covered employees. Throughout the term of this Agreement, the Contractor shall post in a prominent and accessible place at every work site and provide each covered employee a copy of the written notices provided by the Department. The Contractor shall provide the notices to its subcontractors and require them to be posted and provided to each covered employee.

6. The Contractor shall ensure that its subcontractors comply with the requirements of Section 6-109, and shall provide written notification to its subcontractors of those requirements. All subcontracts made by the Contractor shall be in writing and shall include provisions relating to the wages, supplements, and health benefits required by Section 6-109. No work may be performed by a subcontractor employing covered employees prior to the Contractor entering into a written subcontract with the subcontractor.

7. Each year throughout the term of the Agreement and whenever requesting the Department's approval of a subcontractor, the Contractor shall submit to the Department an updated certification, as required by Section 6-109 and in the form of the certification attached to this Agreement, identifying any changes to the current certification.

8. Failure to comply with the requirements of Section 6-109 may, in the discretion of the Department, constitute a material breach by the Contractor of the terms of this Agreement. If the Contractor and/or subcontractor receives written notice of such a breach and fails to cure such breach within 30 Days, the City shall have the right to pursue any rights or remedies available under this Agreement or under applicable law, including termination of the Agreement. If the Contractor fails to perform in accordance with any of the requirements of Section 6-109 and fails to cure such failure in accordance with the preceding sentence, and there is a continued need for the service, the City may obtain from another source the required service as specified in the original Agreement, or any part thereof, and may charge the Contractor for any difference in price resulting from the alternative arrangements, and may, as appropriate, invoke such other sanctions as are available under the Agreement and applicable law. In addition, the Contractor agrees to pay for all costs incurred by the City in enforcing the requirements of Section 6-109, including the

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cost of any investigation conducted by or on behalf of the Department or the Comptroller, where the City discovers that the Contractor or its subcontractor(s) failed to comply with the requirements of this Section 4.04(B) or of Section 6-109. The Contractor also agrees, that

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should it fail or refuse to pay for any such investigation, the Department is hereby authorized to deduct from a Contractor's account an amount equal to the cost of such investigation.

Section 4.05 Non-Discrimination in Employment

A. General Prohibition. To the extent required by law, the Contractor shall not unlawfully discriminate against any employee or applicant for employment because of actual or perceived age, religion, religious practice, creed, sex, gender, gender identity or gender expression, sexual orientation, status as a victim of domestic violence, stalking, and sex offenses, familial status, partnership status, marital status, caregiver status, pregnancy, childbirth or related medical condition, disability, presence of a service animal, predisposing genetic characteristics, race, color, national origin (including ancestry), alienage, citizenship status, political activities or recreational activities as defined in N.Y. Labor Law 201-d, arrest or conviction record, credit history, military status, uniformed service, unemployment status, salary history, or any other protected class of individuals as defined by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities, due to pregnancy, childbirth, or a related medical condition, due to status as a victim of domestic violence, stalking, or sex offenses, or due to religion.

B. N.Y. Labor Law § 220-e. If this Agreement is for the construction, alteration or repair of any public building or public work or for the manufacture, sale, or distribution of materials, equipment, or supplies, the Contractor agrees, as required by N.Y. Labor Law § 220-e, that:

1. In the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, neither the Contractor, subcontractor, nor any person acting on behalf of such Contractor or subcontractor, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;

2. Neither the Contractor, subcontractor, nor any person on his or her behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of race, creed, color, disability, sex or national origin;

3. There may be deducted from the amount payable to the Contractor by the City under this Agreement a penalty of \$50.00 for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Agreement; and

4. This Agreement may be terminated by the City, and all monies due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this Section 4.05.

The provisions of this Section 4.05(B) shall be limited to operations performed within the territorial limits of the State of New York.

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C. Admin. Code § 6-108. If this Agreement is for the construction, alteration or repair of buildings or the construction or repair of streets or highways, or for the manufacture, sale, or

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distribution of materials, equipment or supplies, the Contractor agrees, as required by Admin. Code § 6-108, that:

1. It shall be unlawful for any person engaged in the construction, alteration or repair of buildings or engaged in the construction or repair of streets or highways pursuant to a contract with the City or engaged in the manufacture, sale or distribution of materials, equipment or supplies pursuant to a contract with the City to refuse to employ or to refuse to continue in any employment any person on account of the race, color or creed of such person.

2. It shall be unlawful for any person or any servant, agent or employee of any person, described in Section 4.05(C)(1) above, to ask, indicate or transmit, orally or in writing, directly or indirectly, the race, color, creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.

Breach of the foregoing provisions shall be deemed a breach of a material provision of this Agreement.

Any person, or the employee, manager or owner of or officer of such firm or corporation who shall violate any of the provisions of this Section 4.05(C) shall, upon conviction thereof, be punished by a fine of not more than \$100.00 or by imprisonment for not more than 30 Days, or both.

D. E.O. 50 -- Equal Employment Opportunity

1. This Agreement is subject to the requirements of City Executive Order No. 50 (1980) ("E.O. 50"), as revised, and the rules set forth at 66 RCNY §§ 10-01 et seq. No agreement will be awarded unless and until these requirements have been complied with in their entirety. The Contractor agrees that it:

a. Will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation or citizenship status with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;

b. Will not discriminate unlawfully in the selection of subcontractors on the basis of the owners', partners' or shareholders' race, color, creed, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status;

c. Will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, color, creed, national origin, sex, age, disability, marital status, sexual orientation or citizenship status, and that it is an equal employment opportunity employer;

d. Will send to each labor organization or representative of workers with which

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it has a collective bargaining agreement or other contract or memorandum of understanding,

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written notification of its equal employment opportunity commitments under E.O. 50 and the rules and regulations promulgated thereunder;

e. Will furnish before this Agreement is awarded all information and reports including an Employment Report which are required by E.O. 50, the rules and regulations promulgated thereunder, and orders of the SBS, Division of Labor Services ("DLS"); and

f. Will permit DLS to have access to all relevant books, records, and accounts for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

2. The Contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, such noncompliance shall constitute a material breach of this Agreement and noncompliance with E.O. 50 and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of DLS, the Director of DLS may direct the Commissioner to impose any or all of the following sanctions:

- a. Disapproval of the Contractor; and/or
- b. Suspension or termination of the Agreement; and/or
- c. Declaring the Contractor in default; and/or
- d. In lieu of any of the foregoing sanctions, imposition of an employment program.

3. Failure to comply with E.O. 50 and the rules and regulations promulgated thereunder in one or more instances may result in the Department declaring the Contractor to be non-responsible.

4. The Contractor agrees to include the provisions of the foregoing Sections 4.05(D)(1)-(3) in every subcontract or purchase order in excess of \$100,000.00 to which it becomes a party unless exempted by E.O. 50 and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of DLS as a means of enforcing such provisions including sanctions for noncompliance. A supplier of unfinished products to the Contractor needed to produce the item contracted for shall not be considered a subcontractor or vendor for purposes of this Section 4.05(D)(4).

5. The Contractor further agrees that it will refrain from entering into any subcontract or modification thereof subject to E.O. 50 and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 and the rules and regulations promulgated thereunder. A supplier of unfinished products to the Contractor needed to produce the item contracted for shall not

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be considered a subcontractor for purposes of this Section 4.05(D)(5).

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6. Nothing contained in this Section 4.05(D) shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, that is operated, supervised or controlled by or in connection with a religious organization, from lawfully limiting employment or lawfully giving preference to persons of the same religion or denomination or from lawfully making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

Section 4.06 Paid Sick Leave Law

A. Introduction and General Provisions.

1. The Earned Sick Time Act, also known as the Paid Sick Leave Law (“PSLL”), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time.² Contractors of the City or of other governmental entities may be required to provide sick time pursuant to the PSLL.

2. The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the Admin. Code. It is administered by the City’s Department of Consumer Affairs (“DCA”). DCA’s rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York (“Rules”).

3. The Contractor agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this Agreement. The Contractor further acknowledges that such compliance is a material term of this Agreement and that failure to comply with the PSLL in performance of this Agreement may result in its termination.

4. The Contractor must notify the ACCO in writing within 10 Days of receipt of a complaint (whether oral or written) regarding the PSLL involving the performance of this Agreement. Additionally, the Contractor must cooperate with DCA’s education efforts and must comply with DCA’s subpoenas and other document demands as set forth in the PSLL and Rules.

5. The PSLL is summarized below for the convenience of the Contractor. The Contractor is advised to review the PSLL and Rules in their entirety. On the website www.nyc.gov/PaidSickLeave there are links to the PSLL and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which the Contractor can get more information about how to comply with the PSLL. The Contractor acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

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² Pursuant to the PSL, if fewer than five employees work for the same employer, as determined pursuant Admin. Code

§ 20-912(g), such employer has the option of providing such employees uncompensated sick time.

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B. Pursuant to the PSLL and the Rules: Applicability, Accrual, and Use.

1. An employee who works within the City of New York for more than eighty hours in any consecutive 12-month period designated by the employer as its “calendar year” pursuant to the PSLL (“Year”) must be provided sick time. Employers must provide a minimum of one hour of sick time for every 30 hours worked by an employee and compensation for such sick time must be provided at the greater of the employee’s regular hourly rate or the minimum wage. Employers are not required to provide more than 40 hours of sick time to an employee in any Year.

2. An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per Day. In addition, an employee may carry over up to 40 hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than 40 hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first Day of such Year.

3. An employee entitled to sick time pursuant to the PSLL may use sick time for any of the following:

a. such employee’s mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee’s need for medical diagnosis or preventive medical care;

b. such employee’s care of a family member (an employee’s child, spouse, domestic partner, parent, sibling, grandchild, or grandparent, or the child or parent of an employee’s spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;

c. closure of such employee’s place of business by order of a public official due to a public health emergency; or

d. such employee’s need to care for a child whose school or childcare provider has been closed due to a public health emergency.

4. An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use of sick time was needed for a reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSLL. However, an employer may not require documentation specifying the nature of a medical condition or otherwise require disclosure of the details of a medical condition as a condition of providing sick time and health information obtained solely due to an employee’s use of sick time pursuant to the PSLL must be treated by the employer as confidential.

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5. If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

6. Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.

C. *Exemptions and Exceptions.* Notwithstanding the above, the PSLL does not apply to any of the following:

1. an independent contractor who does not meet the definition of employee under N.Y. Labor Law § 190(2);

2. an employee covered by a valid collective bargaining agreement in effect on April 1, 2014, until the termination of such agreement;

3. an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSLL are expressly waived in such collective bargaining agreement;

4. an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSLL for such employee;

5. an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;

6. an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;

7. an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or

8. a participant in a Work Experience Program (WEP) under N.Y. Social Services Law § 336-c.

D. *Retaliation Prohibited.* An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSLL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSLL.

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E. Notice of Rights.

1. An employer must provide its employees with written notice of their rights pursuant to the PSLL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at <http://www.nyc.gov/html/dca/html/law/PaidSickLeave.shtml>.

2. Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed \$50.00 for each employee who was not given appropriate notice.

F. Records. An employer must retain records documenting its compliance with the PSLL for a period of at least three years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSLL.

G. Enforcement and Penalties.

1. Upon receiving a complaint alleging a violation of the PSLL, DCA has the right to investigate such complaint and attempt to resolve it through mediation. Within 30 Days of written notification of a complaint by DCA, or sooner in certain circumstances, the employer must provide DCA with a written response and such other information as DCA may request. If DCA believes that a violation of the PSLL has occurred, it has the right to issue a notice of violation to the employer.

2. DCA has the power to grant an employee or former employee all appropriate relief as set forth in Admin. Code § 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSLL civil penalties not to exceed \$500.00 for a first violation, \$750.00 for a second violation within two years of the first violation, and \$1,000.00 for each succeeding violation within two years of the previous violation.

H. More Generous Policies and Other Legal Requirements. Nothing in the PSLL is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time. The PSLL provides minimum requirements pertaining to sick time and does not preempt, limit, or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees. The PSLL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule, or regulation.

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Section 4.07 Whistleblower Protection Expansion Act

A. In accordance with Local Laws 30 and 33 of 2012, codified at Admin. Code §§ 6- 132 and 12-113, respectively,

1. Contractor shall not take an adverse personnel action with respect to an officer or employee in retaliation for such officer or employee making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any officer or employee relating to this Agreement to (i) the Commissioner of the Department of Investigation, (ii) a member of the New York City Council, the Public Advocate, or the Comptroller, or (iii) the City Chief Procurement Officer, ACCO, Agency head, or Commissioner.

2. If any of Contractor's officers or employees believes that he or she has been the subject of an adverse personnel action in violation of this Section 4.07, he or she shall be entitled to bring a cause of action against Contractor to recover all relief necessary to make him or her whole. Such relief may include but is not limited to: (i) an injunction to restrain continued retaliation, (ii) reinstatement to the position such employee would have had but for the retaliation or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliation, including litigation costs and reasonable attorney's fees.

3. Contractor shall post a notice provided by the City (attached hereto) in a prominent and accessible place on any site where work pursuant to the Agreement is performed that contains information about:

a. how its employees can report to the New York City Department of Investigation allegations of fraud, false claims, criminality or corruption arising out of or in connection with the Agreement; and

b. the rights and remedies afforded to its employees under Admin. Code §§ 7-805 (the New York City False Claims Act) and 12-113 (the Whistleblower Protection Expansion Act) for lawful acts taken in connection with the reporting of allegations of fraud, false claims, criminality or corruption in connection with the Agreement.

4. For the purposes of this Section 4.07, "adverse personnel action" includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

5. This Section 4.07 is applicable to all of Contractor's subcontractors having subcontracts with a value in excess of \$100,000.00; accordingly, Contractor shall include this Section 4.07 in all subcontracts with a value in excess of \$100,000.00.

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B. Section 4.07 is not applicable to this Agreement if it is valued at \$100,000.00 or less. Sections 4.07(A)(1), (2), (4), and (5) are not applicable to this Agreement if it was solicited pursuant to a finding of an emergency. Section 4.07(A)(3) is neither applicable to this Agreement if it was solicited prior to October 18, 2012 nor if it is a renewal of a contract executed prior to October 18, 2012.

ARTICLE 5 – RECORDS, AUDITS, REPORTS, AND INVESTIGATIONS

Section 5.01 Books and Records

The Contractor agrees to maintain separate and accurate books, records, documents, and other evidence, and to utilize appropriate accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

Section 5.02 Retention of Records

The Contractor agrees to retain all books, records, documents, other evidence relevant to this Agreement, including those required pursuant to Section 5.01, for six years after the final payment or expiration or termination of this Agreement, or for a period otherwise prescribed by Law, whichever is later. In addition, if any litigation, claim, or audit concerning this Agreement has commenced before the expiration of the six-year period, the books, records, documents, and other evidence must be retained until the completion of such litigation, claim, or audit. Any books, records, documents, and other evidence that are created in an electronic format in the regular course of business may be retained in an electronic format. Any books, records, documents, or other evidence that are created in the regular course of business as a paper copy may be retained in an electronic format provided that they satisfy the requirements of N.Y. Civil Practice Law and Rules (“CPLR”) 4539(b), including the requirement that the reproduction is created in a manner “which does not permit additions, deletions, or changes without leaving a record of such additions, deletions, or changes.” Furthermore, the Contractor agrees to waive any objection to the admissibility of any such books, records, documents, or other evidence on the grounds that such documents do not satisfy CPLR 4539(b).

Section 5.03 Inspection

A. At any time during the Agreement or during the record retention period set forth in Section 5.02, the City, including the Department and the Department’s Office of the Inspector General, as well as City, State, and federal auditors and any other persons duly authorized by the City shall, upon reasonable notice, have full access to and the right to examine and copy all books, records, documents, and other evidence maintained or retained by or on behalf of the Contractor pursuant to this Article 5. Notwithstanding any provision herein regarding notice of inspection, all books, records, documents, and other evidence of the Contractor kept pursuant to this Agreement shall be subject to immediate inspection, review, and copying by the Department’s Office of the Inspector General, the Comptroller, and/or federal auditors without prior notice and at no additional cost to the City. The Contractor shall make such books, records documents, and other evidence available for inspection in the City of New York or shall reimburse the City for expenses associated with the out-of-City inspection.

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B. The Department shall have the right to have representatives of the Department or of the City, State or federal government present to observe the services being performed. If observation of particular services or activity would constitute a waiver of a legal privilege or violate the Law or an ethical obligation under the New York Rules of Professional Conduct for attorneys, National Association of Social Workers Code of Ethics or other similar code governing the provision of a profession's services in New York State, the Contractor shall promptly inform the Department or other entity seeking to observe such work or activity. Such restriction shall not act to prevent government representatives from inspecting the provision of services in a manner that allows the representatives to ensure that services are being performed in accordance with this Agreement.

C. The Contractor shall not be entitled to final payment until the Contractor has complied with any request for inspection or access given under this Section 5.03.

Section 5.04 Audit

A. This Agreement and all books, records, documents, and other evidence required to be maintained or retained pursuant to this Agreement, including all vouchers or invoices presented for payment and the books, records, and other documents upon which such vouchers or invoices are based (e.g., reports, cancelled checks, accounts, and all other similar material), are subject to audit by (i) the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, (ii) the State, (iii) the federal government, and (iv) other persons duly authorized by the City. Such audits may include examination and review of the source and application of all funds whether from the City, the State, the federal government, private sources, or otherwise.

B. Audits by the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, are performed pursuant to the powers and responsibilities conferred by the Charter and the Admin. Code, as well as all orders, rules, and regulations promulgated pursuant to the Charter and Admin. Code.

C. The Contractor shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the Department and by the Comptroller in the exercise of his/her powers under Law.

D. The Contractor shall not be entitled to final payment until the Contractor has complied with the requirements of this Section 5.04.

Section 5.05 No Removal of Records from Premises

Where performance of this Agreement involves use by the Contractor of any City books, records, documents, or data (in hard copy, or electronic or other format now known or developed in the future) at City facilities or offices, the Contractor shall not remove any such items or material (in the format in which it originally existed, or in any other converted or derived format) from such facility or office without the prior written approval of the Department's designated official. Upon the request by the Department at any time during the Agreement or after the Agreement has expired or terminated, the Contractor shall return to the Department any City books, records, documents, or data that has been removed from City premises.

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Section 5.06 Electronic Records

As used in this Appendix A, the terms “books,” “records,” “documents,” and “other evidence” refer to electronic versions as well as hard copy versions.

Section 5.07 Investigations Clause

A. The Contractor agrees to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State or City agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

B.

1. If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, or State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the Laws of the State, or;

2. If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;

C.

6. The Commissioner or Agency Head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five (5) Days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

7. If any non-governmental party to the hearing requests an adjournment, the Commissioner or Agency Head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to Paragraph E below without the City incurring any penalty or damages for delay

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or otherwise.

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D. The penalties that may attach after a final determination by the Commissioner or Agency Head may include but shall not exceed:

1. The disqualification for a period not to exceed five years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

2. The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

E. The Commissioner or Agency Head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in Paragraphs (1) and (2) below. He or she may also consider, if relevant and appropriate, the criteria established in Paragraphs (3) and

(4) below, in addition to any other information that may be relevant and appropriate:

1. The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

2. The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

3. The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.

4. The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Paragraph D above, provided that the party or entity has given actual notice to the Commissioner or Agency Head upon the acquisition of the interest, or at the hearing called for in Paragraph (C)(1) above gives notice and proves that such interest was previously acquired. Under either circumstance, the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

F. Definitions

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1. The term “license” or “permit” as used in this Section shall be defined as a license, permit, franchise, or concession not granted as a matter of right.

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2. The term “person” as used in this Section shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

3. The term “entity” as used in this Section shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City, or otherwise transacts business with the City.

4. The term “member” as used in this Section shall be defined as any person associated with another person or entity as a partner, director, officer, principal, or employee.

G. In addition to and notwithstanding any other provision of this Agreement, the Commissioner or Agency Head may in his or her sole discretion terminate this Agreement upon not less than three (3) Days written notice in the event the Contractor fails to promptly report in writing to the City Commissioner of Investigation any solicitation of money, goods, requests for future employment or other benefits or thing of value, by or on behalf of any employee of the City or other person or entity for any purpose that may be related to the procurement or obtaining of this Agreement by the Contractor, or affecting the performance of this Agreement.

Section 5.08 Confidentiality

A. The Contractor agrees to hold confidential, both during and after the completion or termination of this Agreement, all of the reports, information, or data, furnished to, or prepared, assembled or used by, the Contractor under this Agreement. The Contractor agrees to maintain the confidentiality of such reports, information, or data by using a reasonable degree of care, and using at least the same degree of care that the Contractor uses to preserve the confidentiality of its own confidential information. The Contractor agrees that such reports, information, or data shall not be made available to any person or entity without the prior written approval of the Department. The obligation under this Section 5.08 to hold reports, information or data confidential shall not apply where the Contractor is legally required to disclose such reports, information or data, by virtue of a subpoena, court order or otherwise (“disclosure demand”), provided that the Contractor complies with the following: (1) the Contractor shall provide advance notice to the Commissioner, in writing or by e-mail, that it received a disclosure demand for to disclose such reports, information or data and (2) if requested by the Department, the Contractor shall not disclose such reports, information, or data until the City has exhausted its legal rights, if any, to prevent disclosure of all or a portion of such reports, information or data. The previous sentence shall not apply if the Contractor is prohibited by law from disclosing to the Department the disclosure demand for such reports, information or data.

B. The Contractor shall provide notice to the Department within three days of the discovery by the Contractor of any breach of security, as defined in Admin. Code § 10-501(b), of any data, encrypted or otherwise, in use by the Contractor that contains social security numbers or other personal identifying information as defined in Admin. Code § 10-501 (“Personal Identifying Information”), where such breach of security arises out of the acts or omissions of the Contractor or its employees, subcontractors, or agents. Upon the discovery of such security breach, the Contractor shall take reasonable steps to remediate the cause or causes of such breach, and shall provide notice

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to the Department of such steps. In the event of such breach of security, without limiting any other right of the City, the City shall have the right to withhold further payments under this Agreement for

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the purpose of set-off in sufficient sums to cover the costs of notifications and/or other actions mandated by any Law, or administrative or judicial order, to address the breach, and including any fines or disallowances imposed by the State or federal government as a result of the disclosure. The City shall also have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover the costs of credit monitoring services for the victims of such a breach of security by a national credit reporting agency, and/or any other commercially reasonable preventive measure. The Department shall provide the Contractor with written notice and an opportunity to comment on such measures prior to implementation. Alternatively, at the City's discretion, or if monies remaining to be earned or paid under this Agreement are insufficient to cover the costs detailed above, the Contractor shall pay directly for the costs, detailed above, if any.

C. The Contractor shall restrict access to confidential information to persons who have a legitimate work related purpose to access such information. The Contractor agrees that it will instruct its officers, employees, and agents to maintain the confidentiality of any and all information required to be kept confidential by this Agreement.

D. The Contractor, and its officers, employees, and agents shall notify the Department, at any time either during or after completion or termination of this Agreement, of any intended statement to the press or any intended issuing of any material for publication in any media of communication (print, news, television, radio, Internet, etc.) regarding the services provided or the data collected pursuant to this Agreement at least 24 hours prior to any statement to the press or at least five business days prior to the submission of the material for publication, or such shorter periods as are reasonable under the circumstances. The Contractor may not issue any statement or submit any material for publication that includes confidential information as prohibited by this Section 5.08.

E. At the request of the Department, the Contractor shall return to the Department any and all confidential information in the possession of the Contractor or its subcontractors. If the Contractor or its subcontractors are legally required to retain any confidential information, the Contractor shall notify the Department in writing and set forth the confidential information that it intends to retain and the reasons why it is legally required to retain such information. The Contractor shall confer with the Department, in good faith, regarding any issues that arise from the Contractor retaining such confidential information. If the Department does not request such information or the Law does not require otherwise, such information shall be maintained in accordance with the requirements set forth in Section 5.02.

F. A breach of this Section 5.08 shall constitute a material breach of this Agreement for which the Department may terminate this Agreement pursuant to Article 10. The Department reserves any and all other rights and remedies in the event of unauthorized disclosure.

ARTICLE 6 – COPYRIGHTS, PATENTS, INVENTIONS, AND ANTITRUST

Section 6.01 Copyrights and Ownership of Work Product

A. Any reports, documents, data, photographs, deliverables, and/or other materials produced pursuant to this Agreement, and any and all drafts and/or other preliminary materials in any format related to such items produced pursuant to this Agreement, shall upon their creation

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become the exclusive property of the City.

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B. Any reports, documents, data, photographs, deliverables, and/or other materials provided pursuant to this Agreement ("Copyrightable Materials") shall be considered "work-made-for-hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101, and the City shall be the copyright owner thereof and of all aspects, elements, and components thereof in which copyright protection might exist. To the extent that the Copyrightable Materials do not qualify as "work-made-for-hire," the Contractor hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Copyrightable Materials to the City, free and clear of any liens, claims, or other encumbrances. The Contractor shall retain no copyright or intellectual property interest in the Copyrightable Materials. The Copyrightable Materials shall be used by the Contractor for no purpose other than in the performance of this Agreement without the prior written permission of the City. The Department may grant the Contractor a license to use the Copyrightable Materials on such terms as determined by the Department and set forth in the license.

C. The Contractor acknowledges that the City may, in its sole discretion, register copyright in the Copyrightable Materials with the United States Copyright Office or any other government agency authorized to grant copyright registrations. The Contractor shall fully cooperate in this effort and agrees to provide any and all documentation necessary to accomplish this.

D. The Contractor represents and warrants that the Copyrightable Materials: (i) are wholly original material not published elsewhere (except for material that is in the public domain); (ii) do not violate any copyright Law; (iii) do not constitute defamation or invasion of the right of privacy or publicity; and (iv) are not an infringement, of any kind, of the rights of any third party. To the extent that the Copyrightable Materials incorporate any non-original material, the Contractor has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under this Agreement, copies of which shall be provided to the City upon execution of this Agreement.

E. If the services under this Agreement are supported by a federal grant of funds, the federal and State government reserves a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for federal or State government purposes, the copyright in any Copyrightable Materials developed under this Agreement.

F. If the Contractor publishes a work dealing with any aspect of performance under this Agreement, or with the results of such performance, the City shall have a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use such work for City governmental purposes.

Section 6.02 Patents and Inventions

The Contractor shall promptly and fully report to the Department any discovery or invention arising out of or developed in the course of performance of this Agreement. If the services under this Agreement are supported by a federal grant of funds, the Contractor shall promptly and fully report to the federal government for the federal government to make a determination as to whether patent protection on such invention shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest.

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Section 6.03 Pre-existing Rights

In no case shall Sections 6.01 and 6.02 apply to, or prevent the Contractor from asserting or protecting its rights in any discovery, invention, report, document, data, photograph, deliverable, or other material in connection with or produced pursuant to this Agreement that existed prior to or was developed or discovered independently from the activities directly related to this Agreement.

Section 6.04 Antitrust

The Contractor hereby assigns, sells, and transfers to the City all right, title, and interest in and to any claims and causes of action arising under the antitrust laws of the State or of the United States relating to the particular goods or services procured by the City under this Agreement.

ARTICLE 7 – INSURANCE

Section 7.01 Agreement to Insure

The Contractor shall maintain the following types of insurance if and as indicated in Schedule A (with the minimum limits and special conditions specified in Schedule A) throughout the term of this Agreement, including any applicable guaranty period. All insurance shall meet the requirements set forth in this Article 7. Wherever this Article 7 requires that insurance coverage be “at least as broad” as a specified form (including all ISO forms), there is no obligation that the form itself be used, provided that the Contractor can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as the specified form.

Section 7.02 Workers’ Compensation, Disability Benefits, and Employers’ Liability Insurance

A. The Contractor shall maintain workers’ compensation insurance, employers’ liability insurance, and disability benefits insurance, in accordance with Law on behalf of, or in regard to, all employees providing services under this Agreement.

B. Within 10 Days of award of this Agreement or as otherwise specified by the Department, and as required by N.Y. Workers’ Compensation Law §§ 57 and 220(8), the Contractor shall submit proof of Contractor’s workers’ compensation insurance and disability benefits insurance (or proof of a legal exemption) to the Department in a form acceptable to the New York State Workers’ Compensation Board. ACORD forms are not acceptable proof of such insurance. The following forms are acceptable:

1. Form C-105.2, *Certificate of Workers’ Compensation Insurance*;
2. Form U-26.3, *State Insurance Fund Certificate of Workers’ Compensation Insurance*;
3. Form SI-12, *Certificate of Workers’ Compensation Self-Insurance*;
4. Form GSI-105.2, *Certificate of Participation in Worker’s Compensation Group Self-Insurance*;

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5. Form DB-120.1, *Certificate of Disability Benefits Insurance*;

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6. Form DB-155, *Certificate of Disability Benefits Self-Insurance*;
 7. Form CE-200 – *Affidavit of Exemption*;
 8. Other forms approved by the New York State Workers' Compensation Board;
- or
9. Other proof of insurance in a form acceptable to the City.

Section 7.03 Other Insurance

A. *Commercial General Liability Insurance.* The Contractor shall maintain commercial general liability insurance in the amounts specified in Schedule A covering operations under this Agreement. Coverage must be at least as broad as the coverage provided by the most recently issued ISO Form CG 00 01, primary and non-contributory, and "occurrence" based rather than "claims-made." Such coverage shall list the City, together with its officials and employees, and any other entity that may be listed on Schedule A as an additional insured with coverage at least as broad as the most recently issued ISO Form CG 20 10 or CG 20 26 and, if construction is performed as part of the services, ISO Form CG 20 37.

B. *Commercial Automobile Liability Insurance.* If indicated in Schedule A and/or if vehicles are used in the provision of services under this Agreement, the Contractor shall maintain commercial automobile liability insurance for liability arising out of ownership, maintenance or use of any owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued ISO Form CA 00 01. If vehicles are used for transporting hazardous materials, the commercial automobile liability insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

C. *Professional Liability Insurance.*

1. If indicated in Schedule A, the Contractor shall maintain and submit evidence of professional liability insurance or errors and omissions insurance appropriate to the type(s) of such services to be provided under this Agreement. The policy or policies shall cover the liability assumed by the Contractor under this Agreement arising out of the negligent performance of professional services or caused by an error, omission, or negligent act of the Contractor or anyone employed by the Contractor.

2. All subcontractors of the Contractor providing professional services under this Agreement for which professional liability insurance or errors and omissions insurance is reasonably commercially available shall also maintain such insurance in the amount specified in Schedule A. At the time of the request for subcontractor approval, the Contractor shall provide to the Department, evidence of such professional liability insurance on a form acceptable to the Department.

3. Claims-made policies will be accepted for professional liability insurance. All

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such policies shall have an extended reporting period option or automatic coverage of not less than two years. If available as an option, the Contractor shall purchase extended

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reporting period coverage effective on cancellation or termination of such insurance unless a new policy is secured with a retroactive date, including at least the last policy year.

D. *Crime Insurance.* If indicated in Schedule A, the Contractor shall maintain crime insurance during the term of the Agreement in the minimum amounts listed in Schedule A. Such insurance shall include coverage, without limitation, for any and all acts of employee theft including employee theft of client property, forgery or alteration, inside the premises (theft of money and securities), inside the premises (robbery or safe burglary of other property), outside the premises, computer fraud, funds transfer fraud, and money orders and counterfeit money. The policy shall name the Contractor as named insured and shall list the City as loss payee as its interests may appear.

E. *Cyber Liability Insurance.* If indicated in Schedule A, the Contractor shall maintain cyber liability insurance covering losses arising from operations under this Agreement in the amounts listed in Schedule A. The City shall approve the policy (including exclusions therein), coverage amounts, deductibles or self-insured retentions, and premiums, as well as the types of losses covered, which may include but not be limited to: notification costs, security monitoring costs, losses resulting from identity theft, and other injury to third parties. If additional insured status is commercially available under the Contractor's cyber liability insurance, the insurance shall cover the City, together with its respective officials and employees, as additional insured.

F. *Other Insurance.* The Contractor shall provide such other types of insurance in the amounts specified in Schedule A.

Section 7.04 General Requirements for Insurance Coverage and Policies

A. Unless otherwise stated, all insurance required by Section 7.03 of this Agreement must:

1. be provided by companies that may lawfully issue such policies;
2. have an A.M. Best rating of at least A- / VII, a Standard & Poor's rating of at least A, a Moody's Investors Service rating of at least A3, a Fitch Ratings rating of at least A- or a similar rating by any other nationally recognized statistical rating organization acceptable to the New York City Law Department unless prior written approval is obtained from the New York City Law Department; and
3. be primary (and non-contributing) to any insurance or self-insurance maintained by the City (not applicable to professional liability insurance/errors and omissions insurance) and any other entity listed as an additional insured in Schedule A.

B. The Contractor shall be solely responsible for the payment of all premiums for all required insurance policies and all deductibles or self-insured retentions to which such policies are subject, whether or not the City is an insured under the policy.

C. There shall be no self-insurance program, including a self-insurance retention, exceeding \$10,000.00, with regard to any insurance required under Section 7.03 unless approved in writing by the Commissioner. Any such self-insurance program shall provide the City and any other

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additional insured listed on Schedule A with all rights that would be provided by traditional insurance required under this Article 7, including but not limited to the defense obligations that insurers are required to undertake in liability policies.

D. The limits of coverage for all types of insurance for the City, including its officials and employees, and any other additional insured listed on Schedule A that must be provided to such additional insured(s) shall be the greater of (i) the minimum limits set forth in Schedule A or (ii) the limits provided to the Contractor as named insured under all primary, excess, and umbrella policies of that type of coverage.

Section 7.05 Proof of Insurance

A. For each policy required under Section 7.03 and Schedule A of this Agreement, the Contractor shall file proof of insurance and, where applicable, proof that the City, including its officials and employees, is an additional insured with the Department within ten Days of award of this Agreement. The following proof is acceptable:

1. A certificate of insurance accompanied by a completed certification of insurance broker or agent (included in Schedule A of this Agreement) and any endorsements by which the City, including its officials and employees, have been made an additional insured; or

2. A copy of the insurance policy, including declarations and endorsements, certified by an authorized representative of the issuing insurance carrier.

B. Proof of insurance confirming renewals of insurance required under Section 7.03 must be submitted to the Department prior to the expiration date of the coverage. Such proof must meet the requirements of Section 7.05(A).

C. The Contractor shall provide the City with a copy of any policy required under this Article 7 upon the demand for such policy by the Commissioner or the New York City Law Department.

D. Acceptance by the Commissioner of a certificate or a policy does not excuse the Contractor from maintaining policies consistent with all provisions of this Article 7 (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.

E. If the Contractor receives notice, from an insurance company or other person, that any insurance policy required under this Article 7 shall expire or be cancelled or terminated for any reason, the Contractor shall immediately forward a copy of such notice to both the address referred to in Section 14.04 and Schedule A and to the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007.

Section 7.06 Miscellaneous

A. Whenever notice of loss, damage, occurrence, accident, claim, or suit is required under a policy required by Section 7.03 and Schedule A, the Contractor shall provide the insurer with

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timely notice thereof on behalf of the City. Such notice shall be given even where the Contractor may not be covered under such policy if this Agreement requires that the City be an

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additional insured (for example, where one of Contractor's employees was injured). Such notice shall expressly specify that "this notice is being given on behalf of the City of New York, including its officials and employees, as additional insured" (such notice shall also include the name of any other entity listed as an additional insured on Schedule A) and contain the following information to the extent known: the number of the insurance policy; the name of the named insured; the date and location of the damage, occurrence, or accident; the identity of the persons or things injured, damaged, or lost; and the title of the claim or suit, if applicable. The Contractor shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007. If the Contractor fails to comply with the requirements of this paragraph, the Contractor shall indemnify the City, together with its officials and employees, and any other entity listed as an additional insured on Schedule A for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the City together with its officials and employees, and any other entity listed as an additional insured on Schedule A.

B. The Contractor's failure to maintain any of the insurance required by this Article 7 and Schedule A shall constitute a material breach of this Agreement. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

C. Insurance coverage in the minimum amounts required in this Article 7 shall not relieve the Contractor or its subcontractors of any liability under this Agreement, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this Agreement or Law.

D. With respect to insurance required by Section 7.03 and Schedule A (but not including professional liability/errors and omissions insurance), the Contractor waives all rights against the City, including its officials and employees, and any other entity listed as an additional insured on Schedule A for any damages or losses that are covered under any insurance required under this Article 7 (whether or not such insurance is actually procured or claims are paid thereunder) or any other insurance applicable to the operations of the Contractor and/or its subcontractors in the performance of this Agreement.

E. In the event the Contractor requires any subcontractor to maintain insurance with regard to any operations under this Agreement and requires such subcontractor to list the Contractor as an additional insured under such insurance, the Contractor shall ensure that such entity also list the City, including its officials and employees, and any other entity listed as an additional insured on Schedule A as an additional insured. With respect to commercial general liability insurance, such coverage must be at least as broad as the most recently issued ISO form CG 20 26.

ARTICLE 8 – PROTECTION OF PERSONS AND PROPERTY AND INDEMNIFICATION

Section 8.01 Reasonable Precautions

The Contractor shall take all reasonable precautions to protect all persons and the property of the City and of others from injury, damage, or loss resulting from the Contractor's and/or its subcontractors' operations under this Agreement.

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Section 8.02 Protection of City Property

The Contractor assumes the risk of, and shall be responsible for, any loss or damage to City property, including property and equipment leased by the City, used in the performance of this Agreement, where such loss or damage is caused by negligence, any tortious act, or failure to comply with the provisions of this Agreement or of Law by the Contractor, its officers, employees, agents or subcontractors.

Section 8.03 Intentionally Omitted

Section 8.04 Intentionally Omitted

Section 8.05 Intentionally Omitted

Section 8.06 Actions By or Against Third Parties

A. If any claim is made or any action brought in any way relating to Agreement other than an action between the City and the Contractor, the Contractor shall diligently render to the City without additional compensation all assistance that the City may reasonably require of the Contractor. to the extent such action results from the actions of Contractor.

B. The Contractor shall report to the Department in writing within five business days of the initiation by or against the Contractor of any legal action or proceeding relating to this Agreement.

Section 8.07 Withholding of Payments

A. If any claim is made or any action is brought against the City for which the Contractor may be required to indemnify the City pursuant to this Agreement, the City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover the said claim or action.

B. If any City property is lost or damaged as set forth in Section 8.02, except for normal wear and tear, the City shall have the right to withhold payments under this Agreement for the purpose of set-off in sufficient sums to cover such loss or damage.

C. The City shall not, however, impose a set-off in the event that an insurance company that provided insurance pursuant to Section 7.03 above has accepted the City's tender of the claim or action without a reservation of rights.

D. The Department may, at its option, withhold for purposes of set-off any monies due to the Contractor under this Agreement up to the amount of any disallowances or questioned costs resulting from any audits of the Contractor or to the amount of any overpayment to the Contractor with regard to this Agreement.

E. The rights and remedies of the City provided for in this Section 8.07 are not exclusive and are in addition to any other rights and remedies provided by Law or this Agreement.

Section 8.08 No Third Party Rights

The provisions of this Agreement shall not be deemed to create any right of action in favor of third parties against the Contractor or the City or their respective officials and employees.

ARTICLE 9 – CONTRACT CHANGES

Section 9.01 Contract Changes

Changes to this Agreement may be made only as duly authorized by the ACCO or his or her designee and in accordance with the PPB Rules. Any amendment or change to this Agreement shall not be valid unless made in writing and signed by authorized representatives of both parties. The Contractor deviates from the requirements of this Agreement without a duly approved and executed change order document or written contract modification or amendment at its own risk.

Section 9.02 Changes Through Fault of Contractor

If any change is required in the data, documents, deliverables, or other services to be provided under this Agreement because of negligence or error of the Contractor, no additional compensation shall be paid to the Contractor for making such change, and the Contractor is obligated to make such change without additional compensation.

ARTICLE 10 – TERMINATION, DEFAULT, REDUCTIONS IN FUNDING, AND LIQUIDATED DAMAGES

Section 10.01 Termination by the City Without Cause

A. The City shall have the right to terminate this Agreement, in whole or in part, without cause, in accordance with the provisions of Section 10.05.

B. The Contractor shall have the right to terminate this Agreement and withdraw from the Contract, in accordance with the provisions of Article I, Section I of the Emergency Hotel Booking Service Agreement and the Hotel Use Agreement.

C. If the City terminates this Agreement pursuant to this Section 10.01, the following provisions apply. Except as otherwise set forth in the Emergency Hotel Booking Service Agreement and the Hotel Use Agreement, the City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date set by the City pursuant to Section 10.5. The City shall pay for services provided in accordance with this Agreement prior to the termination date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

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Section 10.02 Reductions in Federal, State, and/or City Funding

A. This Agreement is funded in whole or in part by funds secured from the federal, State and/or City governments. Should there be a reduction or discontinuance of such funds by action of the federal, State and/or City governments, the City shall have, in its sole discretion, the right to terminate this Agreement in whole or in part, or to reduce the funding and/or level of services of this Agreement caused by such action by the federal, State and/or City governments, including, in the case of the reduction option, but not limited to, the reduction or elimination of programs, services or service components; the reduction or elimination of contract-reimbursable staff or staff-hours, and corresponding reductions in the budget of this Agreement and in the total amount payable under this Agreement. Any reduction in funds pursuant to this Section 10.02(A) shall be accompanied by an appropriate reduction in the services performed under this Agreement. Notwithstanding the foregoing, in the event of a reduction in funding or reduction in payment set forth in the Emergency Hotel Booking Service Agreement or the Hotel Use Agreement, Contractor shall have the right to terminate this Agreement and the Emergency Hotel Booking Service Agreement and/or the Hotel Use Agreement simultaneously with the effectiveness of such reduction.

B. In the case of the reduction option referred to in Section 10.02(A), above, and provided this Agreement is not terminated by either party, any such reduction shall be effective as of the date set forth in a written notice thereof to the Contractor, which shall be not less than thirty (30) days from the date of such notice. Prior to sending such notice of reduction, the Department shall advise the Contractor that such option is being exercised and afford the Contractor an opportunity to make within seven (7) days any suggestion(s) it may have as to which program(s), service(s), service component(s), staff or staff-hours might be reduced or eliminated.

C. If the City reduces funding pursuant to this Section 10.02 and this Agreement is not terminated as set forth above, the following provisions apply. The City shall pay for services provided in accordance with this Agreement prior to the reduction date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of reduction and falling due after the reduction date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

D. To the extent that the reduction in public funds is a result of the State determining that the Contractor may receive medical assistance funds pursuant to title eleven of article five of the Social Services Law to fund the services contained within the scope of a program under this Agreement, then the notice and effective date provisions of this Section 10.02 shall not apply, and the Department may reduce such public funds authorized under this Agreement by informing the Contractor of the amount of the reduction and revising attachments to this Agreement as appropriate.

Section 10.03 Contractor Default

A. The City shall have the right to declare the Contractor in default:

1. Upon a breach by the Contractor of a material term or condition of this

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Agreement, including material failure to perform of the services and such failure continued following ten (10) days written notice to Contractor;

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2. Upon insolvency or the commencement of any proceeding by or against the Contractor, either voluntarily or involuntarily, under the Bankruptcy Code or relating to the insolvency, receivership, liquidation, or composition of the Contractor for the benefit of creditors;

3. If the Contractor refuses or fails in any material respect to proceed with the services under the Agreement when and as directed by the Commissioner unless such refusal is due to reasonable concern for life or safety of person or property;

4. If the Contractor or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities are indicted or convicted after execution of the Agreement under any state or federal law of any of the following:

a. a criminal offense incident to obtaining or attempting to obtain or performing a public or private contract;

b. fraud, embezzlement, theft, bribery, forgery, falsification, or destruction of records, or receiving stolen property;

c. a criminal violation of any state or federal antitrust law;

d. violation of the Racketeer Influence and Corrupt Organization Act, 18 U.S.C. §§ 1961 et seq., or the Mail Fraud Act, 18 U.S.C. §§ 1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;

e. conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any statute described in subparagraph (d) above; or

f. an offense indicating a lack of business integrity that seriously and directly affects responsibility as a City vendor.

5. If the Contractor or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities are subject to a judgment of civil liability under any state or federal antitrust law for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

6. If the Contractor or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities makes or causes to be made any false, deceptive, or fraudulent material statement, or fail to make a required material statement in any bid, proposal, or application for City or other government work.

B. The right to declare the Contractor in default shall be exercised by sending the Contractor a written notice of the conditions of default, signed by the Commissioner, setting forth the ground or grounds upon which such default is declared ("Notice to Cure"). The Contractor shall

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have ten Days from receipt of the Notice to Cure or any longer period that is set forth in the Notice

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to Cure to cure the default. The Commissioner may temporarily suspend services under the Agreement pending the outcome of the default proceedings pursuant to this Section 10.03.

C. If the conditions set forth in the Notice to Cure are not cured within the period set forth in the Notice to Cure, the Commissioner may declare the Contractor in default pursuant to this Section 10.03. Before the Commissioner may exercise his or her right to declare the Contractor in default, the Commissioner shall give the Contractor an opportunity to be heard upon not less than five business days' notice. The Commissioner may, in his or her discretion, provide for such opportunity to be in writing or in person. Such opportunity to be heard shall not occur prior to the end of the cure period but notice of such opportunity to be heard may be given prior to the end of the cure period and may be given contemporaneously with the Notice to Cure.

D. After the opportunity to be heard, the Commissioner may terminate the Agreement, in whole or in part, upon finding the Contractor in default pursuant to this Section 10.03, in accordance with the provisions of Section 10.05.

Section 10.04 Force Majeure

A. For purposes of this Agreement, a force majeure event is an act or event beyond the control and without any fault or negligence of the Contractor ("Force Majeure Event"). Such events may include, but are not limited to, fire, flood, earthquake, storm or other natural disaster, civil commotion, war, terrorism, riot, and labor disputes not brought about by any act or omission of the Contractor. For purposes of this agreement, the unanticipated material inability of any Hotel to provide services due to circumstances beyond its control shall be considered a Force Majeure Event.

B. In the event the Contractor cannot comply with the terms of the Agreement (including any failure by the Contractor to make progress in the performance of the services) because of a Force Majeure Event, then the Contractor may ask the Commissioner to excuse the nonperformance and/or terminate the Agreement. If the Commissioner, in his or her reasonable discretion, determines that the Contractor cannot comply with the terms of the Agreement because of a Force Majeure Event, then the Commissioner shall excuse the nonperformance and may terminate the Agreement. Such a termination shall be deemed to be without cause.

C. If the City terminates the Agreement pursuant to this Section 10.04, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date, except as set forth in the Emergency Hotel Booking Service Agreement and the Hotel Use Agreement. The City shall pay for services provided in accordance with this Agreement prior to the termination date. Any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

Section 10.05 Procedures for Termination

A. The Department and/or the City shall give the Contractor written notice of any

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termination of this Agreement. Such notice shall specify the applicable provision(s) under which the Agreement is terminated and the effective date of the termination. Except as otherwise provided in

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this Agreement, the notice shall comply with the provisions of this Section 10.05 and Section 14.04. For termination without cause, the effective date of the termination shall not be less than ten (10) days from the date the notice is personally delivered, or ten (10) (days from the date the notice is either sent by certified mail, return receipt requested, delivered by overnight or same day courier service in a properly addressed envelope with confirmation, or sent by email and, unless the receipt of the email is acknowledged by the recipient by email, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed postage pre-paid envelope. In the case of termination for default, the effective date of the termination shall be as set forth above for a termination without cause or such earlier date as the Commissioner may determine. Provided however that the City shall not terminate this Agreement without cause prior to 30 days after the effective date of this Agreement. If the City terminates the Agreement in part, the Contractor shall continue the performance of the Agreement to the extent not terminated.

B. Upon termination or expiration of this Agreement, the Contractor shall comply with the City close-out procedures, including but not limited to:

1. Accounting for and refunding to the Department, within 45 Days, any unexpended funds which have been advanced to the Contractor pursuant to this Agreement;
2. Furnishing within 45 Days an inventory to the Department of all equipment, appurtenances and property purchased through or provided under this Agreement and carrying out any Department or City directive concerning the disposition of such equipment, appurtenances and property;
3. Turning over to the Department or its designees all books, records, documents and material specifically relating to this Agreement that the Department has requested be turned over;
4. Submitting to the Department, within 90 Days, a final statement and report relating to the Agreement. The report shall be made by a certified public accountant or a licensed public accountant, unless the Department waives, in writing, the requirement that a certified public accountant or licensed public accountant make such report; and
5. Providing reasonable assistance to the Department in the transition, if any, to a new contractor.

Section 10.06 Miscellaneous Provisions

A. The Commissioner, in addition to any other powers set forth in this Agreement or by operation of Law, may suspend, in whole or in part, any part of the services to be provided under this Agreement whenever in his or her judgment such suspension is required in the best interest of the City. If the Commissioner suspends this Agreement pursuant to this Section 10.06, the City shall not incur or pay any further obligation pursuant to this Agreement beyond the suspension date until such suspension is lifted. The City shall pay for services provided in accordance with this Agreement prior to the suspension date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of suspension and falling due during the suspension period shall be paid by the City in accordance with the terms of this Agreement.

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B. Notwithstanding any other provisions of this Agreement, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of the Contractor's breach of the Agreement, and the City may withhold payments to the Contractor for the purpose of set-off in the amount of damages due to the City from the Contractor.

C. The rights and remedies of the City provided in this Article 10 shall not be exclusive and are in addition to all other rights and remedies provided by Law or under this Agreement.

Section 10.07 Liquidated Damages

If Schedule A or any other part of this Agreement includes liquidated damages for failure to comply with a provision of this Agreement, the sum indicated is fixed and agreed as the liquidated damages that the City will suffer by reason of such noncompliance and not as a penalty.

ARTICLE 11 – PROMPT PAYMENT AND ELECTRONIC FUNDS TRANSFER

Section 11.01 Prompt Payment

A. The prompt payment provisions of PPB Rule § 4-06 are applicable to payments made under this Agreement. With some exceptions, the provisions generally require the payment to the Contractor of interest on payments made after the required payment date, as set forth in the PPB Rules.

B. The Contractor shall submit a proper invoice to receive payment, except where the Agreement provides that the Contractor will be paid at predetermined intervals without having to submit an invoice for each scheduled payment.

C. Determination of interest due will be made in accordance with the PPB Rules and the applicable rate of interest shall be the rate in effect at the time of payment.

Section 11.02 Electronic Funds Transfer

A. In accordance with Admin. Code § 6-107.1, the Contractor agrees to accept payments under this Agreement from the City by electronic funds transfer. An electronic funds transfer is any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Prior to the first payment made under this Agreement, the Contractor shall designate one financial institution or other authorized payment agent and shall complete the "EFT Vendor Payment Enrollment Form" available from the Agency or at <http://www.nyc.gov/dof> in order to provide the commissioner of the Department of Finance with information necessary for the Contractor to receive electronic funds transfer payments through the designated financial institution or authorized payment agent. The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by the Contractor shall constitute full satisfaction by the City for the amount of the payment under this Agreement. The account information supplied by the Contractor to facilitate the electronic funds transfer shall remain confidential to the fullest extent provided by Law.

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B. The Agency Head may waive the application of the requirements of this Section 11.02 to payments on contracts entered into pursuant to Charter § 315. In addition, the commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the Department may waive the requirements of this Section 11.02 for payments in the following circumstances: (i) for individuals or classes of individuals for whom compliance imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the best interest of the City.

C. This Section 11.02 is applicable to contracts valued at \$25,000.00 and above.

ARTICLE 12 – CLAIMS

Section 12.01 Choice of Law

This Agreement shall be deemed to be executed in the City and State of New York, regardless of the domicile of the Contractor, and shall be governed by and construed in accordance with the Laws of the State of New York (notwithstanding New York choice of law or conflict of law principles) and the Laws of the United States, where applicable.

Section 12.02 Jurisdiction and Venue

Subject to Section 12.03, the parties agree that any and all claims asserted by or against the City arising under or related to this Agreement shall solely be heard and determined either in the courts of the United States located in the City or in the courts of the State located in the City and County of New York. The parties shall consent to the dismissal and/or transfer of any claims asserted in any other venue or forum to the proper venue or forum. If the Contractor initiates any action in breach of this Section 12.02, the Contractor shall be responsible for and shall promptly reimburse the City for any attorneys' fees incurred by the City in removing the action to a proper court consistent with this Section 12.02.

Section 12.03 Intentionally Omitted

Section 12.04 Claims and Actions

A. Any claim, that is not subject to dispute resolution under the PPB Rules or this Agreement, against the City for damages for breach of contract shall not be made or asserted in any action, unless the Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims, as provided in this Agreement.

B. No action shall be instituted or maintained on any such claims unless such action shall be commenced within six months after the final payment under this Agreement, or within six months of the termination or expiration of this Agreement, or within six months after the accrual of the cause of action, whichever first occurs.

Section 12.05 No Claim Against Officials, Agents, or Employees

No claim shall be made by the Contractor against any official, agent, or employee of the City in their personal capacity for, or on account of, anything done or omitted in connection with this

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Agreement.

Section 12.06 Intentionally Omitted

Section 12.07 No Waiver

Waiver by either the Department or the Contractor of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless and until the same shall be agreed to in writing by the parties as set forth in Section 9.01.

ARTICLE 13 – APPLICABLE LAWS

Section 13.01 PPB Rules

This Agreement is subject to the PPB Rules. If there is a conflict between the PPB Rules and a provision of this Agreement, the PPB Rules shall take precedence.

Section 13.02 All Legal Provisions Deemed Included

Each and every provision required by Law to be inserted in this Agreement is hereby deemed to be a part of this Agreement, whether actually inserted or not.

Section 13.03 Severability / Unlawful Provisions Deemed Stricken

If this Agreement contains any unlawful provision not an essential part of the Agreement and which shall not appear to have been a controlling or material inducement to the making of this Agreement, the unlawful provision shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from the Agreement without affecting the binding force of the remainder.

Section 13.04 Compliance With Laws

The Contractor shall perform all services under this Agreement in accordance with all applicable Laws as are in effect at the time such services are performed.

Section 13.05 Unlawful Discrimination in the Provision of Services

A. *Discrimination in Public Accommodations.* With respect to services provided under this Agreement, the Contractor shall not unlawfully discriminate against any person because of actual or perceived age, religion, creed, sex, gender, gender identity or gender expression, sexual orientation, partnership status, marital status, disability, presence of a service animal, race, color, national origin, alienage, citizenship status, or military status, or any other class of individuals protected from discrimination in public accommodations by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities.

B. *Discrimination in Housing Accommodations.* With respect to services provided under this Agreement, the Contractor shall not unlawfully discriminate against any person because of actual or perceived age, religion, creed, sex, gender, gender identity or gender expression, sexual

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orientation, status as a victim of domestic violence, stalking, and sex offenses, partnership status,

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marital status, presence of children, disability, presence of a service or emotional support animal, race, color, national origin, alienage or citizenship status, lawful occupation, or lawful source of income (including income derived from social security, or any form of federal, state, or local public government assistance or housing assistance including Section 8 vouchers), or any other class of individuals protected from discrimination in housing accommodations by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities.

C. *Admin. Code § 6-123.* In accordance with Admin. Code § 6-123, the Contractor will not engage in any unlawful discriminatory practice as defined in and pursuant to the terms of Title 8 of the Admin. Code. The Contractor shall include a provision in any agreement with a first-level subcontractor performing services under this Agreement for an amount in excess of \$50,000.00 that such subcontractor shall not engage in any such unlawful discriminatory practice.

D. *Immigration status.* In connection with the services provided under this Agreement, the Contractor shall not inquire about the immigration status of a recipient or potential recipient of such services unless (i) it is necessary for the determination of program, service or benefit eligibility or the provision of City services or (ii) the Contractor is required by law to inquire about such person's immigration status.

Section 13.06 Americans with Disabilities Act (ADA)

A. This Agreement is subject to the provisions of Subtitle A of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 et seq. ("ADA") and regulations promulgated pursuant thereto, see 28 CFR Part 35. The Contractor shall not discriminate against an individual with a disability, as defined in the ADA, in providing services, programs, or activities pursuant to this Agreement. If directed to do so by the Department to ensure the Contractor's compliance with the ADA during the term of this Agreement, the Contractor shall prepare a plan ("Compliance Plan") which lists its program site(s) and describes in detail, how it intends to make the services, programs and activities set forth in the scope of services herein readily accessible and usable by individuals with disabilities at such site(s). If the program site is not readily accessible and usable by individuals with disabilities, contractor shall also include in the Compliance Plan, a description of reasonable alternative means and methods that result in making the services, programs or activities provided under this Agreement, readily accessible to and usable by individuals with disabilities, including but not limited to people with visual, auditory or mobility disabilities. The Contractor shall submit the Compliance Plan to the ACCO for review within ten Days after being directed to do so and shall abide by the Compliance Plan and implement any action detailed in the Compliance Plan to make the services, programs, or activities accessible and usable by the disabled.

B. The Contractor's failure to either submit a Compliance Plan as required herein or implement an approved Compliance Plan may be deemed a material breach of this Agreement and result in the City terminating this Agreement.

Section 13.07 Voter Registration

A. *Participating Agencies.* Pursuant to Charter § 1057-a, if this Agreement is made by and

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through a participating City agency and the Contractor has regular contact with the public in the daily administration of its business, the Contractor must comply with the requirements of this

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Section 13.06. The participating City agencies are: the Administration for Children's Services; the City Clerk; the Civilian Complaint Review Board; the Commission on Human Rights; Community Boards; SBS; the Department of Citywide Administrative Services; the Department of Consumer Affairs; the Department of Correction; the Department of Environmental Protection; the Department of Finance; the Department of Health and Mental Hygiene; the Department of Homeless Services; the Department of Housing Preservation and Development; the Department of Parks and Recreation; the Department of Probation; the Taxi and Limousine Commission; the Department of Transportation; and the Department of Youth and Community Development.

B. *Distribution of Voter Registration Forms.* In accordance with Charter § 1057-a, the Contractor, if it has regular contact with the public in the daily administration of its business under this Agreement, hereby agrees as follows:

1. The Contractor shall provide and distribute voter registration forms to all persons together with written applications for services, renewal, or recertification for services and change of address relating to such services. Such voter registration forms shall be provided to the Contractor by the City. The Contractor should be prepared to provide forms written in Spanish or Chinese, and shall obtain a sufficient supply of such forms from the City.

2. The Contractor shall also include a voter registration form with any Contractor communication sent through the United States mail for the purpose of supplying clients with materials for application, renewal, or recertification for services and change of address relating to such services. If forms written in Spanish or Chinese are not provided in such mailing, the Contractor shall provide such forms upon the Department's request.

3. The Contractor shall, subject to approval by the Department, incorporate an opportunity to request a voter registration application into any application for services, renewal, or recertification for services and change of address relating to such services provided on computer terminals, the World Wide Web or the Internet. Any person indicating that they wish to be sent a voter registration form via computer terminals, the World Wide Web or the Internet shall be sent such a form by the Contractor or be directed, in a manner subject to approval by the Department, to a link on that system where such a form may be downloaded.

4. The Contractor shall, at the earliest practicable or next regularly scheduled printing of its own forms, subject to approval by the Department, physically incorporate the voter registration forms with its own application forms in a manner that permits the voter registration portion to be detached therefrom. Until such time when the Contractor amends its form, the Contractor should affix or include a postage-paid City Board of Elections voter registration form to or with its application, renewal, recertification, and change of address forms.

5. The Contractor shall prominently display in its public office, subject to approval by the Department, promotional materials designed and approved by the City or State Board of Elections.

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6. For the purposes of Paragraph A of this Section 13.06, the word "Contractor" shall be deemed to include subcontractors having regular contact with the public in the daily administration of their business.

7. The provisions of Paragraph A of this Section 13.06 shall not apply to services that must be provided to prevent actual or potential danger to life, health, or safety of any individual or of the public.

C. *Assistance in Completing Voter Registration Forms.* In accordance with Charter § 1057-a, the Contractor hereby agrees as follows:

1. In the event the Department provides assistance in completing distributed voter registration forms, the Contractor shall also provide such assistance, in the manner and to the extent specified by the Department.

2. In the event the Department receives and transmits completed registration forms from applicants who wish to have the forms transmitted to the City Board of Elections, the Contractor shall similarly provide such service, in the manner and to the extent specified by the Department.

3. If, in connection with the provision of services under this Agreement, the Contractor intends to provide assistance in completing distributed voter registration forms or to receive and transmit completed registration forms from applicants who wish to have the forms transmitted to the City Board of Elections, the Contractor shall do so only by prior arrangement with the Department.

4. The provision of Paragraph B services by the Contractor may be subject to Department protocols, including protocols regarding confidentiality.

D. *Required Statements.* In accordance with Charter § 1057-a, the Contractor hereby agrees as follows:

1. The Contractor shall advise all persons seeking voter registration forms and information, in writing together with other written materials provided by the Contractor or by appropriate publicity, that the Contractor's or government services are not conditioned on being registered to vote.

2. No statement shall be made and no action shall be taken by the Contractor or an employee of the Contractor to discourage an applicant from registering to vote or to encourage or discourage an applicant from enrolling in any particular political party.

3. The Contractor shall communicate to applicants that the completion of voter registration forms is voluntary.

4. The Contractor and the Contractor's employees shall not:

a. seek to influence an applicant's political preference or party designation;

- b. display any political preference or party allegiance;

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c. make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

d. make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

E. The Contractor, as defined above and in this Agreement, agrees that the covenants and representations in this Section 13.06 are material conditions of this Agreement.

F. The provisions of this Section 13.06 do not apply where the services under this Agreement are supported by a federal or State grant of funds and the source of funds prohibits the use of federal or State funds for the purposes of this Section.

Section 13.08 Political Activity

The Contractor's provision of services under this Agreement shall not include any partisan political activity or any activity to further the election or defeat of any candidate for public, political, or party office, nor shall any of the funds provided under this Agreement be used for such purposes.

Section 13.09 Religious Activity

There shall be no religious worship, instruction, or proselytizing as part of or in connection with the Contractor's provision of services under this Agreement, nor shall any of the funds provided under this Agreement be used for such purposes.

Section 13.10 Participation in an International Boycott

A. The Contractor agrees that neither the Contractor nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the federal Export Administration Act of 1979, as amended, 50 U.S.C. Appendix. §§ 2401 et seq., or the regulations of the United States Department of Commerce promulgated thereunder.

B. Upon the final determination by the Commerce Department or any other agency of the United States as to, or conviction of, the Contractor or a substantially-owned affiliated company thereof, of participation in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations promulgated thereunder, the Comptroller may, at his or her option, render forfeit and void this Agreement.

C. The Contractor shall comply in all respects, with the provisions of Admin. Code § 6-114 and the rules issued by the Comptroller thereunder.

Section 13.11 MacBride Principles

A. In accordance with and to the extent required by Admin. Code § 6-115.1, the Contractor stipulates that the Contractor and any individual or legal entity in which the Contractor holds a ten percent (10%) or greater ownership interest and any individual or legal entity that holds

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a ten percent (10%) or greater ownership interest in the Contractor either (a) have no business

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operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles.

B. The Contractor agrees that the covenants and representations in Paragraph A above are material conditions to this Agreement.

C. This Section does not apply if the Contractor is a not-for-profit corporation.

Section 13.12 Access to Public Health Insurance Coverage Information

A. Participating Agencies. Pursuant to Charter § 1069, if this Agreement is with a participating City agency and the Contractor is one to whom this Section 13.11 applies as provided in Paragraph B of this Section 13.11, the Contractor hereby agrees to fulfill the obligations in Paragraph C of this Section 13.11. The participating City agencies are: the Administration for Children's Services; the City Clerk; the Commission on Human Rights; the Department for the Aging; the Department of Corrections; the Department of Homeless Services; the Department of Housing Preservation and Development; the Department of Juvenile Justice; the Department of Health and Mental Hygiene; the Department of Probation; the Department of Social Services/Human Resources Administration; the Taxi and Limousine Commission; the Department of Youth and Community Development; the Office to Combat Domestic Violence; and the Office of Immigrant Affairs.

B. Applicability to Certain Contractors. This Section 13.11 shall be applicable to a Contractor operating pursuant to an Agreement which (i) is in excess of \$250,000.00 and (ii) requires such Contractor to supply individuals with a written application for, or written renewal or recertification of services, or request for change of address form in the daily administration of its contractual obligation to such participating City agency. "Contractors" to whom this Section 13.11 applies shall be deemed to include subcontractors if the subcontract requires the subcontractor to supply individuals with a written application for, or written renewal or recertification of services, or request for change of address form in the daily administration of the subcontractor's contractual obligation.

C. Distribution of Public Health Insurance Pamphlet. In accordance with Charter § 1069, when the participating City agency supplies the Contractor with the public health insurance program options pamphlet published by the Department of Health and Mental Hygiene pursuant to Section 17-183 of the Admin. Code (hereinafter "pamphlet"), the Contractor hereby agrees as follows:

1. The Contractor will distribute the pamphlet to all persons requesting a written application for services, renewal or recertification of services or request for a change of address relating to the provision of services.

2. The Contractor will include a pamphlet with any Contractor communication sent through the United States mail for the purpose of supplying an individual with a written application for services, renewal or recertification of services or with a request for a change of address form relating to the provision of services.

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3. The Contractor will provide an opportunity for an individual requesting a written application for services, renewal or recertification for services or change of address form relating to the provision of services via the Internet to request a pamphlet, and will provide such pamphlet by United States mail or an Internet address where such pamphlet may be viewed or downloaded, to any person who indicates via the Internet that they wish to be sent a pamphlet.

4. The Contractor will ensure that its employees do not make any statement to an applicant for services or client or take any action the purpose or effect of which is to lead the applicant or client to believe that a decision to request public health insurance or a pamphlet has any bearing on their eligibility to receive or the availability of services or benefits.

5. The Contractor will comply with: (i) any procedures established by the participating City agency to implement Charter § 1069; (ii) any determination of the commissioner or head of the participating City agency (which is concurred in by the commissioner of the Department of Health and Mental Hygiene) to exclude a program, in whole or in part, from the requirements of Charter § 1069; and (iii) any determination of the commissioner or head of the participating City agency (which is concurred in by the commissioner of the Department of Health and Mental Hygiene) as to which Workforce Investment Act of 1998 offices providing workforce development services shall be required to fulfill the obligations under Charter § 1069.

D. Non-applicability to Certain Services. The provisions of this Section 13.11 shall not apply to services that must be provided to prevent actual or potential danger to the life, health or safety of any individual or to the public.

Section 13.13 Distribution of Personal Identification Materials

A. Participating Agencies. Pursuant to City Executive Order No. 150 of 2011 ("E.O. 150"), if this Agreement is with a participating City agency and the Contractor has regular contact with the public in the daily administration of its business, the Contractor must comply with the requirements of this Section 13.12. The participating City agencies are: Administration for Children's Services, Department of Consumer Affairs, Department of Correction, Department of Health and Mental Hygiene, Department of Homeless Services, Department of Housing Preservation and Development, Human Resources Administration, Department of Parks and Recreation, Department of Probation, and Department of Youth and Community Development.

B. Policy. As expressed in E.O. 150, it is the policy of the City to provide information to individuals about how they can obtain the various forms of City, State, and Federal government-issued identification and, where appropriate, to assist them with the process for applying for such identification.

C. Distribution of Materials. If the Contractor has regular contact with the public in the daily administration of its business, the Contractor hereby agrees to provide and distribute materials and information related to whether and how to obtain various forms of City, State, and Federal

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government-issued identification as the Agency directs in accordance with the Agency's plans developed pursuant to E.O. 150.

ARTICLE 14 – MISCELLANEOUS PROVISIONS

Section 14.01 Conditions Precedent

A. This Agreement shall be neither binding nor effective unless and until it is registered pursuant to Charter § 328.

B. The requirements of this Section 14.01 shall be in addition to, and not in lieu of, any approval or authorization otherwise required for this Agreement to be effective and for the expenditure of City funds.

Section 14.02 Merger

This written Agreement contains all the terms and conditions agreed upon by the parties, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties, or to modify any of the terms contained in this Agreement, other than a written change, amendment or modification duly executed by both parties pursuant to Article 9 of this Appendix A.

Section 14.03 Headings

Headings are inserted only as a matter of convenience and therefore are not a part of and do not affect the substance of this Agreement.

Section 14.04 Notice

A. The Contractor and the Department hereby designate the business addresses and email addresses specified in Schedule A (and if not specified in Schedule A, as specified at the beginning of this Agreement) as the places where all notices, directions, or communications from one such party to the other party shall be delivered, or to which they shall be mailed. Either party may change its notice address at any time by an instrument in writing executed and acknowledged by the party making such change and delivered to the other party in the manner as specified below.

B. Any notice, direction, or communication from either party to the other shall be in writing and shall be deemed to have been given when (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) delivered by overnight or same day courier service in a properly addressed envelope with confirmation; or (iv) sent by email and, unless receipt of the e-mail is acknowledged by the recipient by email, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed, postage pre-paid envelope.

C. Nothing in this Section 14.04 shall be deemed to serve as a waiver of any requirements for the service of notice or process in the institution of an action or proceeding as provided by Law, including the New York Civil Practice Law and Rules.

AFFIRMATION

The undersigned proposer or bidder affirms and declares that said proposer or bidder is not in arrears to the City of New York upon debt, contract or taxes and is not a defaulter, as surety or otherwise, upon obligation to the City of New York, and has not been declared not responsible, or disqualified, by any agency of the City of New York, nor is there any proceeding pending relating to the responsibility or qualification of the proposer or bidder to receive public contract except.

Full name of Proposer or Bidder [below]

Address _____

City _____ State _____ Zip Code _____

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

☐ A - ☐ Individual or Sole Proprietorships

SOCIAL SECURITY NUMBER _____

☐ B - ☐ Partnership, Joint Venture or other unincorporated organization EMPLOYER

IDENTIFICATION NUMBER _____

☐ C - ☐ Corporation

EMPLOYER IDENTIFICATION NUMBER _____

By _____
Signature

Title

If a corporation place seal here

Must be signed by an officer or duly authorized representative.

* Under the Federal Privacy Act, the furnishing of Social Security numbers by bidders or proposers on City contracts is voluntary. Failure to provide a Social Security number will not result in a bidder's/proposer's disqualification. Social Security numbers will be used to identify bidders, proposers, or vendors to ensure their compliance with laws, to assist the City in enforcement of laws, as well as to provide the City a means of identifying businesses seeking City contracts

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SCHEDULE A

Article 7 -- Insurance		
Types of Insurance (per Article 7 in its entirety, including listed paragraph)		Minimum Limits and Special Conditions
<input checked="" type="checkbox"/> Workers' Compensation §7.02 <input checked="" type="checkbox"/> Disability Benefits Insurance §7.02 <input checked="" type="checkbox"/> Employers' Liability §7.02		Statutory amounts.
<input checked="" type="checkbox"/> Commercial General Liability §7.03(A)		\$1,000,000.00 per occurrence \$1,000,000.00 personal & advertising injury (unless waived in writing by the Department) \$2,000,000.00 aggregate \$0 products/completed operations Additional Insureds: 1. City of New York, including its officials and employees, and 2. _____ 3. _____
<input type="checkbox"/> Commercial Auto Liability §7.03(B)		\$1,000,000.00 per accident combined single limit If vehicles are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90
<input type="checkbox"/> Professional Liability/Errors & Omissions §7.03(C)		\$1,000,000.00 per claim
<input type="checkbox"/> Crime Insurance §7.03(D)		\$_____ Employee Theft/Dishonesty

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		\$ _____ Computer Fraud \$ _____ Funds Transfer Fraud \$ _____ Client Coverage \$ _____ Forgery or Alteration \$ _____ Inside the Premises (theft of money and securities) \$ _____ Inside the Premises (robbery or safe burglary of other property) \$ _____ Outside the Premises \$ _____ Money Orders and Counterfeit Money City of New York is a loss payee as its interests may appear
<input type="checkbox"/> Cyber Liability Insurance	§7.03(E)	<i>[If there is a significant cyber risk, please consult with the Law Department about specific insurance requirements.]</i>
<input type="checkbox"/> [OTHER]		<i>[If other type(s) of insurance need to be required under the Contract, the Contracting Agency should (a) check the box and fill in the type of insurance in left-hand column, and (b) in this right-hand column, specify appropriate limit(s) and appropriate Named Insured and Additional Insured(s).]</i>
<input type="checkbox"/> [OTHER]		<i>[If other type(s) of insurance need to be required under the Contract, the Contracting Agency should (a) check the box and fill in the type of insurance in left-hand column, and (b) in this right-hand column, specify appropriate limit(s) and appropriate Named Insured and Additional Insured(s).]</i>
Section 10.07 – Liquidated Damages		
<ul style="list-style-type: none"> Violation of Section 3.02(H), reporting subcontractors in the City's Payee Information Portal 		\$100 per day
<ul style="list-style-type: none"> 		\$ _____

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Section 14.04 – Notice

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Department's Mailing Address and Email Address for Notices	
Contractor's Mailing Address and Email Address for Notices	

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

All certificates of insurance (except certificates of insurance solely evidencing Workers' Compensation Insurance, Employer's Liability Insurance, and/or Disability Benefits Insurance) must be accompanied by one of the following:

- (1) the Certification by Insurance Broker or Agent on the following page setting forth the required information and signatures;

-- OR --

- (2) copies of all policies as certified by an authorized representative of the issuing insurance carrier that are referenced in such certificate of insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

CITY OF NEW YORK
CERTIFICATION BY INSURANCE BROKER OR AGENT

The undersigned insurance broker or agent represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects.

[Name of broker or agent (typewritten)]

[Address of broker or agent (typewritten)]

[Email address of broker or agent (typewritten)]

[Phone number/Fax number of broker or agent (typewritten)]

[Signature of authorized official, broker, or agent]

[Name and title of authorized official, broker, or agent (typewritten)]

State of)

) ss.:

County of)

Sworn to before me this _____ day of _____ 20____

NOTARY PUBLIC FOR THE STATE OF _____

WHISTLEBLOWER PROTECTION EXPANSION ACT POSTER



REPORT

CORRUPTION, FRAUD, UNETHICAL CONDUCT **RELATING TO A NYC-FUNDED CONTRACT** **OR PROJECT**

CALL THE NYC DEPARTMENT OF INVESTIGATION

212-825-5959

**DOI CAN ALSO BE REACHED BY MAIL
OR IN PERSON AT:**

**New York City Department of
Investigation (DOI)
80 Maiden Lane, 17th floor
New York, New York 10038
Attention: COMPLAINT BUREAU**

OR FILE A COMPLAINT ON-LINE AT:

www.nyc.gov/doi

All communications are confidential



**Or scan the QR Code above
to make a complaint**

THE LAW PROTECTS EMPLOYEES OF CITY CONTRACTORS WHO REPORT CORRUPTION

- Any employee of a City contractor, or subcontractor of the City, or a City contractor with a contract valued at more than \$100,000 is protected under the law from retaliation by his or her employer if the employee reports wrongdoing related to the contract to the DOI.
- **To be protected by this law**, an employee must report to DOI – or to certain other specified government officials – information about fraud, false claims, corruption, criminality, conflict of interest, gross mismanagement, or abuse of authority relating to a City contract valued at more than \$100,000.
- Any employee who makes such a report and who believes he or she has been dismissed, demoted, suspended, or otherwise subject to an adverse personnel action because of that report is entitled to bring a lawsuit against the contractor and recover damages
-

Exhibit C

Federal Management Agency (“FEMA”) Rider for COVID-19

(see attached)

FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") RIDER FOR COVID-19

For use with purchase or service contracts for COVID-19 funded by FEMA Public Assistance April 2, 2020

*(This Rider **should not** be used for 1) purchase and service contracts outside the scope of the COVID-19 response, 2) purchase and services contracts funded by the following FEMA Programs: Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program).*

For the purposes of this FEMA Rider for COVID-19, "Contract" refers to the contract or agreement between the City of New York (the "City") and the entity providing services or goods ("Contractor") to which this rider is attached.

- A. Remedies for Breach of Contract (for contracts \$250,000 or greater):** If the Contractor violates or breaches the Contract, the City may avail itself of any or all of the remedies provided for elsewhere in this Contract. If there are no remedies provided for elsewhere in this Contract, the City may avail itself to the following:

After declaring the Contractor in default pursuant to the Grounds of Default contained in Section (B)(1)(a), the City may (i) withhold payment for unsatisfactory services, (ii) suspend or terminate the Contract in whole or in part; and/or (iii) have the services under this Contract completed by such means and in such manner, by contract procured with or without competition, or otherwise, as the City may deem advisable in accordance with all applicable Contract provisions and law. After completion of the services under this Contract, the City shall certify the expense incurred in such completion, which shall include the cost of procuring that contract. Should the expense of such completion, as certified by the City, exceed the total sum which would have been payable under the Contract if it had been completed by the Contractor, any excess shall be promptly paid by the Contractor upon demand by the City. The excess expense of such completion, including any and all related and incidental costs, as so certified by the City may be charged against and deducted out of monies earned by the Contractor.

- B. Termination (for contracts \$10,000 or greater):** City shall have the right to terminate the Contract in whole or in part for cause or for convenience. If the Contract does not include termination provisions elsewhere in the Contract, the following termination provisions apply:

- (1) **Termination for Cause.** The City shall have the right to terminate the Contract, in whole or in part, for cause upon a determination that the Contractor is in default of the Contract.

- a. *Grounds for Default.* The City shall have the right to declare the Contractor in default:

- i. Upon a breach by the Contractor of a material term or condition

of this Contract, including unsatisfactory performance of the services;

ii.. If the Contractor refuses or fails to proceed with the services
under the Contract when and as directed by the City

iii. If the Contractor or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities are indicted, charged, convicted or plead guilty to a crime involving business integrity on a private or public contract.

b. *Procedure for Termination for Cause:* Upon finding the Contractor in default, the City shall give the Contractor written notice of such termination ("Notice of Termination"), specifying the applicable provision(s) under which the Contract is terminated and the effective date of termination. Such Notice of Termination shall be delivered through the mail or email to the Contractor.

(2) **Termination for Convenience.** The City shall have the right to terminate the Contract for convenience, by providing a Notice of Termination specifying the applicable provision(s) under which the Contract is terminated and the effective date of termination. The basis of settlement shall be as provided for in Section B(3) below. Such Notice of Termination shall be delivered through the mail or email to the Contractor.

(3) **Basis of Settlement.** The City shall not incur or pay any further obligation pursuant to this Contract beyond the termination date set by the City in its Notice of Termination. The City shall pay for satisfactory services provided in accordance with this Contract prior to the termination date. In addition, any obligation necessarily incurred by the Contractor on account of this Contract prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Contract.

C. *Environmental Protection.* If the contract is in excess of \$150,000, the Contractor shall comply with all applicable standards, orders, or regulations issued under the Clean Air Act (42 U.S.C. § 7401-7671q), Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (provisions of 40 C.F.R. Part 50 and 2 C.F.R. Part 1532 related to the Clean Air Act and Clean Water Act). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency (EPA). The Contractor shall include this provision in all subcontracts.

D. *Debarment.* The Contractor certifies that neither it nor its principals is currently in a state of debarment, suspension, or other ineligible status as a result of prior performance, failure, fraud, or violation of City laws. The Contractor further certifies that neither it nor its principals is debarred, suspended, otherwise excluded from or ineligible for participation in Federal assistance programs. The City reserves the right to terminate this Contract if knowledge of debarment, suspension or other ineligibility has been withheld by the Contractor. This Contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2

C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

E. *Lobbying.* The Contractor certifies, to the best of its knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any

person for influencing or attempting to influence an officer or employee of any agency, a

Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL.
 - (3) It will require that the language of this Section E be included in the award documents for all subcontracts at all tiers.
 - (4) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- F. *Procurement of Recovered Materials.*** In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired i) competitively within a timeframe providing for compliance, ii) meeting the Contract performance requirements, or iii) at a reasonable price. Information about this requirement, along with the EPA designated items is available at EPA's Comprehensive Procurement Guidelines web site. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.
- G. *Records Access.*** The Contractor shall grant access to the City, State or any other pass-through entity, FEMA, Inspectors General, and/or the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and/or records of the Contractor that are pertinent to the Contract for the purpose of making audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the Contractor's personnel for the purpose of interview and discussion related to such documents. The rights of access in this section are not limited to the required retention period but last as long as the records are retained.
- H. *Contract Changes.*** If not provided elsewhere in the Contract, the City and the Contractor must agree in writing to any changes to the Contract, including changes to pricing and scope. All changes must meet the requirements of 2 C.F.R. Part 200, including Subpart E entitled "Cost Principles."
- I. *Logos.*** The Contractor shall not use Department of Homeland Security ("DHS") seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- J. *Compliance with Law.*** The Contractor acknowledges that FEMA financial assistance will be used to fund the Contract and agrees to comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

K. *Federal Government not a Party.* The Contractor acknowledges and understands that the Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the City, Contractor or any other party pertaining to any matter resulting from the Contract.

Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract

Attachment 2

Checklist

(see attached)

Exhibit [] – Hotel Checklist

Hotel Name	Tillary Hotel
Hotel Address	
Number of Rooms	174
Number of Usable Beds (2 beds per room maximum)	
Number of Beds Total	
Number of Floors	
Number of Rooms with both microwaves and refrigerators	
Number of Rooms with microwave only	
Number of Rooms with refrigerator only	All rooms
Number of Office Spaces for DHS (minimum of 1/30 rooms)	
Meeting Spaces – Number and SF of each	
Dedicated Parking Spots [Included in Rate]	
Number of Linen/Towel Laundry Services Per Week [Included in Rate]	
Number of Housekeeping Visits per Week [Included in Rate]	3 Times per week
Number of Guest Laundry Services Per Week – Charge if any	3 times per week
[Attach Floor Plans – Mandatory – Fire Escape Plan will be acceptable]	

Appendix 1

City's Sales Tax Exemption

(see attached)



New York State Department of

TAXATION and FINANCE

OTPA Sales Tax Exempt Orgon 1% 11tlons Unit
Building B Room 425

WA Hamman Campus

Albany, NY 12227

RECEIVED FRO-15th FL.
DEPUTY COMMISSIONER

2009 JUN 30 AH 8:25

November 20, 2002

RECEIVED

RECEIVED

NYC Department of Homeless Services
Division of Administration

33 Beaver Street

New York, NY 10004

Dear Sir or Madam:

The Tax Law exempts New York State governmental entities such as your organization.

NYC Department of Homeless Services. from the payment of New York State sales and use taxes on their purchases. In order to make tax exempt purchases, a New York State governmental entity must present vendors with the entity's official purchase order or other documentation (e.g., payment voucher, contract of sale, Form AC 946, *Tax Exemption Certificate*, Form ST-129, *Exemption Certificate - Tax on occupancy of hotel rooms*, etc.) which indicates that the purchaser is a New York State governmental entity.

York State governmental entity.

Tax exemption numbers and Form **ST-119.1, Exempt Organization Exempt Purchase Certificate**, are not issued to New York State governmental entities. If a vendor requests a tax exemption number or Form **ST-119.1, Exempt Organization Exempt Purchase Certificate**, from you.

the NYC Department of Homeless Services may give the vendor a copy of this letter. This will assure the vendor that a governmental purchase order, or other evidence that the NYC Department **OR**

Homeless Services is the purchaser, is the only documentation the vendor needs in order to not collect sales tax.

City of New York Tax ID#: 136400434

New York State Department of Taxation and Finance

OTPA-Technical Services

Bureau Sales Tax -

Exempt Organizations

Unit Building 8, Room

425

W.A.

Hamman

Campus

Albany,

NY 12227

(518)

457-2782

Appendix 2

Accessible to People with Disabilities Room Details

[HOTEL – PLEASE PROVIDE BREAKDOWN OF ACCESSIBILITY INFO, E.G. RAISED
TOILETS, GRAB BARS, ETC. FOR ROOMS DEEMED ACCESSIBLE.]

Appendix 3

Select Services Scope of Work: Relocation Sites

1. Cleaning/Trash Removal COVID+ and COVID- ROOMS

Surface Cleaning and Disinfection, with focus high touch surfaces Pull Trash

Clean bathroom

Pull and Launder Towels and Linen (and clothing, as directed), keeping COVID + and COVID – towels/linen/clothing separate

- Towels and Linen to be Provided by Hotel Make Bed

2. Laundry

Launder Towels, Linen, Clothing Follow CDC Guideline: Laundry

CDC Guideline: Laundry

For clothing, towels, linens and other items

- Launder items according to the manufacturer's instructions. **Use the warmest appropriate water setting** and dry items completely.
- **Wear disposable gloves** when handling dirty laundry from a person who is sick.
- Dirty laundry from a person who is sick **can be washed with other people's items.**
- **Do not shake** dirty laundry.
- Clean and **disinfect clothes hampers** according to guidance above for surfaces.
- Remove gloves, and **wash hands right away.**

<https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>

Select Services Scope of Work: Isolation Sites

NYC Health and Hospitals Hotel Environmental Services Terminal Clean Checklist

1. Knock on door to ensure no one is in the room
2. Open window
3. Spray *Virex* on all carpeting
4. Spray curtains and other porous materials (chairs, bed skirts and etc.) with *Virex*
5. Remove dirty linen and double bag
6. Spray *Virex* on mattress protector, sofa and chair and allow to sit for a minimum of **3 minutes**
7. Clean and wipe all wipe-able surfaces in the room with *Virex*
 - a. Walls
 - b. Windows
 - c. Night stands and dresser
 - d. Lamp
 - e. TV
 - f. Phone
 - g. High Touched-Surfaces (light switch, remote control, and phone)
 - h. Refrigerator (remove all remaining contents)
8. Clean and wipe picture frames and mirrors using *Glance*
9. Change linens
10. Vacuum from corner to corner
11. Clean bathroom- Using *Virax*
 - a. Tub
 - b. Wall
 - c. Sink
 - d. Toilette
 - e. Mop floor with *TB-cide*
12. Replenish towels, blanket and other toiletries as needed
13. Remove all trash
14. Close window before exiting room
15. Remove gloves when exiting